**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

| | | |
|---|---|---|
| **MELISSA BROOME** | ) | |
| | ) | |
| | ) | |
| **PLAINTIFF.** | ) | |
| | ) | |
| **VS.** | ) | **NO .** 3:25-cv-234-DPJ-ASH |
| | ) | **JURY DEMANDED** |
| **VICKSBURG WARREN SCHOOL DISTRICT** | ) | |
| | ) | |
| **DEFENDANT.** | ) | |

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## COMPLAINT

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**COMES THE PLAINTIFF, MELISSA BROOME**, through counsel, submitting this Complaint and showing:

### I. PARTIES, JURISDICTION, AND VENUE

1. The Plaintiff is Melissa Broome who is a citizen and resident of Warren County, Mississippi.

2. The Defendant, the Vicksburg Warren School District, is organized under the laws of the State of Mississippi. It is charged with managing, controlling, and operating the public school for the students that it serves. It receives federal funds.

3. This action arises out of the retaliation provisions of Title II of the Americans with Disabilities Act and Section 504, respectively, 42 U.S.C. § 12203(a); 29 U.S.C. § 794(d). It also arises from Section 1983 and the First and Fourteenth Amendments to the United States Constitution. The Court's jurisdiction is invoked pursuant to 28 U.S.C. §1331.

4. Venue is appropriate in this Court under 28 U.S.C. §1391(b) as the cause of action arose in Warren County and the Defendant may be found in Warren County.

## II. FACTS

5. Melissa Broome is a special education teacher who teaches students with Individual Education Plans (IEPs) and Section 504 Plans. She teaches in a self-contained special education classroom; all of her students have qualifying disabilities under the Individuals with Disabilities Education Act (IDEA), Section 504, or both.

6. On January 30, 2025, Ms. Broome, in her role as special education teacher, participated in an Individualized Education Plan meeting (a "Multidisciplinary Evaluation Team" meeting in Mississippi) for a student with a paralysis. The Team was deciding eligibility under the IDEA and/or Section 504.

7. Whether a student qualifies for services under the IDEA, Section 504, or both determines where the funding for the services emanates—the IDEA unlocks federal funds whereas Section 504 does not. Generally, a student who requires "specially designed instruction" plus related services is eligible under the IDEA, whereas a student who requires only related services, but not specially designed instruction, is eligible under Section 504. A special education teacher is required by law to attend the IEP Team meeting.[1]

8. For this particular student with paralysis, the IEP Team discussed the student's academic profile. She was quite capable intellectually, with average and above average achievement scores. The student had one math diagnostic score that fell one grade level below standard, a 425 compared to the grade-level cutoff of 428.

*Legally Protected Advocacy*

9. Ms. Broome, in her role as the special education teacher, opined that Section 504, not the IDEA, was the appropriate eligibility fit. That is, Section 504 would meet the student's

[1] 34 C.F.R. §300.321.

needs for related services because the student did not have that additional need for specially designed instruction under the IDEA. Ms. Broome explained that if the district were to provide IEPs under the IDEA for a student with this type of academic profile, including being one grade level below standard, the district would be swamped with IEPs. She opined that, in her opinion, it would not be sustainable for the district.

10. Ms. Broome explained how Section 504 was the appropriate coverage—fully meeting the student's needs for related services. Moreover, given that the student's needs appeared to be accommodations for her paralysis, Ms. Broome shared her belief that the student would be best served by remaining in the general education setting with her peers.

11. Others on the IEP Team believed the IDEA, not Section 504, was the better fit. But throughout, the discussion was pleasant, appropriate, and informed, and Ms. Broome did not begrudge contrary opinions. The meeting ended in friendly fashion—and that included the family of the student. In fact, having given her opinions, she assented to the draft IEP so the student would receive the services.

12. But *administration* was not happy with Ms. Broome's expression. To administration, the Team must avoid conflicting opinions and present a united front at any cost. Later that same day, an instructional specialist from the Office of Special Education for the Vicksburg Warren School District, "formally address[ed]" what Ms. Broome had said. The specialist stated that Ms. Broome had "openly disagreed" with the eligibility decision by giving her opinion that the student "doesn't need Special Education services."

13. By speaking about the role of special education instruction and services, the specialist said Broome's "behavior during this meeting undermined the productive atmosphere."

To the contrary, the required stakeholders at an IEP meeting enjoy freedom of dialogue that must be open, honest, and *not* predetermined.

*Adverse Actions Because of Advocacy*

14. The specialist reprimanded Ms. Broome never to openly speak in disagreement with other Team members and that contrary opinions must only be "raised privately with your instructional specialist, myself, or the school psychometrist." For her speech, Ms. Broome was sent for professional development training to begin the next morning.

15. The following day, January 31, 2025, Vicksburg Warren's Superintendent, Dr. Toriano Holloway, called Ms. Broome to a meeting and reprimanded her about her speech in the IEP Team meeting. Dr. Holloway reiterated that Ms. Broome's speech about Section 504, not the IDEA, was a breach of protocol and, for that, she was being removed from participation in all future IEP meetings. When Ms. Broome attempted to explain her speech, and how it was valuable, and how no one was remotely upset, Dr. Holloway lost his temper. Ms. Broome professionally excused herself from the hostility, still hearing Dr. Holloway's rant resonate through the walls next door.

16. Things got worse. On February 11, 2025, Dr. Holloway suspended Ms. Broome for two days without pay on the grounds that she "got up and walked out refusing to finish the conference." Dr. Holloway's suspension letter also stated that, in the meeting, she was "not being reprimanded nor any other disciplinary action" taken. Dr. Holloway advised she could obtain a "public hearing" on the charges by submitting a request to his attention within five calendar days.

17. The suspension letter is patently false.

18. First, Ms. Broome did not simply "get up and walk out" in an act of insubordination. Rather, she professionally excused herself to escape Dr. Hollway's tirade about her protected

advocacy following his angry statement that she was barred from participating in future IEP Team meetings—a matter affecting all students she serves.

19. Second, Ms. Broome certainly *was* reprimanded. That was the purpose of the meeting. Dr. Holloway upbraided her speech in the IEP meeting and, as a consequence of her speech, barred her from future IEP meetings.

20. Third, the district did not provide Ms. Broome a public hearing even though she did, in fact, appeal the suspension by timely submitting an appeal letter to Dr. Holloway's attention.[2]

21. Ms. Broome's appeal letter documented her speech, Dr. Holloway's misstatements in the suspension letter, and requested a "notice of the hearing and that you and [the assistant superintendent] be available to testify at the hearing, with a subpoena issued to compel your attendance in accordance with the Mississippi Code." She requested all documents in advance of the hearing. Yet no hearing was provided—not even a response.

22. The retaliatory and discriminatory actions occasioned by Ms. Broome's protected speech include the reprimand, the removal of job duties, the suspension, and the denial of a hearing. These actions also caused Broome emotional distress, humiliation, and damage to her reputation. All of these actions were undertaken intentionally, with deliberate indifference, and/or with animus, based upon Broome's advocacy for a student with a disability.

23. As of the filing of this Complaint, Ms. Broome has not received a contract renewal for next year even though every other teacher she knows has.

[2] Prior to appealing, the district's principal met with Ms. Broome and warned her that Dr. Holloway could hold an appeal against her. In Dr. Holloway's own words, he said he might not rehire her if she chose to appeal the suspension.

24. Upon information and belief, in retaliation for Ms. Broome's protected speech, Dr. Holloway has decided not to renew her contract.

## III. LEGAL CAUSES OF ACTION

25. The following facts are incorporated, upon which Plaintiff brings the following causes of action.

*Counts 1 and 2: ADA and Section 504 Retaliation*

26. Under Title II of the ADA and Section 504, Ms. Broome engaged in statutorily protected activity by advocating for public services for a student with a disability, one who is cognitively capable but who is substantially limited in the major life activity of walking and mobility.[3] She held and expressed her sincere belief about how services should be provided to a student with a disability and in a manner protecting other students' funding too.

27. The ADA's antiretaliation provision states in relevant part: "No person shall discriminate against *any individual* because such individual has opposed any act or practice made unlawful by this chapter." 42 U.S.C. § 12203(a)(emphasis added). Similarly, the Rehabilitation Act incorporates the ADA's substantive standards for retaliation claims. *See* 29 U.S.C. § 794(d).

28. Vicksburg Warren School District retaliated against Ms. Broome. It reprimanded her for her advocacy, removed critical job duties, suspended her without pay, and denied her a hearing, and has not renewed her contract (unlike others). All are causally connected to her advocacy for a student with a disability. Vicksburg Warren School District did act intentionally, with bad faith, and/or gross misjudgment.

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[3] The anti-retaliation provisions of the ADA and Rehabilitation Act give standing to special education teachers who are retaliated against for attempting to protect the rights of the disabled students. *Barker v. Riverside Cnty. Office of Educ.*, 584 F.3d 821, 826-28 (9th Cir. 2009).

29. As a result, Ms. Broome has suffered and continues to suffer economic and non-economic damages for which Vicksburg Warren School District is liable, along with attorneys' fees and costs.

*Count 3: First Amendment Retaliation and Section 1983*

30. Ms. Broome spoke on a matter of serious public concern—ensuring services are responsibly provided to a student with a disability in a manner consistent with state and federal law; preserving funding for students who need specially designed instruction under the IDEA; and advocating against a standard that could plunge the district into having IEPs for a disproportionate number of students.

31. Title 42 U.S.C. § 1983 of the United States Code provides in pertinent part:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, or any State or Territory . . . , subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . . .

32. Under the First Amendment and 42 U.S.C. §1983, Vicksburg Warren School District, through persons acting under color of state law with final decision-making authority, engaged in retaliation for Ms. Broome's protected speech. Ms. Broome spoke on matters of public concern, she suffered adverse employment actions, and her speech was the substantial or motivating cause of the adverse employment actions.

33. Vicksburg Warren School District was deliberately indifferent in its actions. But for Ms. Broome's speech and opposition—*because of* these activities—she would not have had her employment suspended by Defendant. As a direct and proximate result of Defendants'

unlawful activity, Ms. Broome has suffered and continues to suffer economic and non-economic damages for which Vicksburg Warren School District is liable.

*Count 4: Fourteenth Amendment Procedural Due Process and Section 1983*

34. Vicksburg Warren School District denied Broome the minimum process required by the Due Process Clause. It was impossible to respond, explain and defend, at a meaningful time in a meaningful manner, when Defendant refused to provide the requested hearing.

## IV. RELIEF

Wherefore, Plaintiff requests the following relief of the Defendant:

A. That proper process issue along with a copy of this Complaint requiring Defendant to appear and answer;

B. A declaration that Defendant has violated federal or state laws, for the reasons outlined above;

C. An order preventing further retaliation and/or discrimination;

D. Appropriate monetary damages sustained by the Plaintiff, including but not limited to damage to her reputation; pain and suffering; and humiliation and embarrassment and emotional harm; [4]

E. Injunctive relief to include training on role of special education teachers, importance of advocacy, lack of predetermination, and protected speech for district leadership;

F. Reasonable attorneys' fees and costs, 42 U.S.C. §12205 and §1988; and

G. Any other legal or equitable relief to which Plaintiff is entitled.

**H. Plaintiff demands a jury.**

[4] A plaintiff who establishes liability for deprivations of constitutional rights actionable under 42 U.S.C. § 1983 is entitled to recover compensatory damages for all injuries suffered as a consequence of those deprivations. *Smith v. Wade*, 461 U.S. 30, 52 (1983) ("Compensatory damages … are mandatory.").

Respectfully submitted,

*s/ Kevin W. Frye*
**KEVIN W. FRYE, MSB # 101871**
1100 Tyler Avenue, Suite 101
Oxford, Mississippi 38655
Telephone: 662.259.0050
Facsimile: 866.710.3841
kwf@kevinwfrye.com

*/s Justin S. Gilbert*
Justin S. Gilbert
(TN Bar No. 017079)
100 W. Martin Luther King Blvd, Suite 501
Chattanooga, TN 37402
Telephone: 423-756-8203
justin@schoolandworklaw.com
*Pro Hac Vice* Pending Admission

*s/Janet H. Goode*
Janet H. Goode
(TN Bar No. 035872)
917 Cooper Street
Memphis, TN 38104
Telephone: 901-308-7511
janet@janetgoodelaw.com
*Pro Hac Vice* Pending Admission

**Attorneys for Plaintiff**

JS 44 (Rev. 03/24)

# CIVIL COVER SHEET 3:25-cv-234-DPJ-ASH

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

## I. (a) PLAINTIFFS

Melissa Broome

**(b)** County of Residence of First Listed Plaintiff _____
*(EXCEPT IN U.S. PLAINTIFF CASES)*

**(c)** Attorneys *(Firm Name, Address, and Telephone Number)*

KEVIN W. FRYE, 1100 Tyler Avenue, Suite 101, Oxford, Mississippi 38655, Telephone: 662.259.00

## DEFENDANTS

Vicksburg Warren School District

County of Residence of First Listed Defendant Warren
*(IN U.S. PLAINTIFF CASES ONLY)*

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

## II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

## III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

*(For Diversity Cases Only)*

| | PTF | DEF | | PTF | DEF |
|---|---|---|---|---|---|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated *or* Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated *and* Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

## IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

**CONTRACT**
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

**TORTS**

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

**FORFEITURE/PENALTY**
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

**BANKRUPTCY**
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

**OTHER STATUTES**
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit (15 USC 1681 or 1692)
- ☐ 485 Telephone Consumer Protection Act
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

**REAL PROPERTY**
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

**CIVIL RIGHTS**
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☒ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

**PRISONER PETITIONS**

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

**LABOR**
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

**IMMIGRATION**
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

**INTELLECTUAL PROPERTY RIGHTS**
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark
- ☐ 880 Defend Trade Secrets Act of 2016

**SOCIAL SECURITY**
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

**FEDERAL TAX SUITS**
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

## V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
42 U.S.C. §§ 12203, 42 U.S.C. §1983

Brief description of cause:

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

**DEMAND $**

CHECK YES only if demanded in complaint:

**JURY DEMAND:** ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

*(See instructions):* JUDGE _____ DOCKET NUMBER _____

DATE
April 3, 2025

SIGNATURE OF ATTORNEY OF RECORD
s/ Kevin W. Frye

**FOR OFFICE USE ONLY**

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

AMSSDC-5653171

AO 440 (Rev. 06/12) Summons in a Civil Action

# UNITED STATES DISTRICT COURT

for the

Southern Distirct of Mississippi
Northern Division

Melissa Broome

*Plaintiff(s)*

v.

Vicksburg Warren School District

*Defendant(s)*

Civil Action No. 3:25-cv-234-DPJ-ASH

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Vicksburg Warren School District
c/o Highest Ranking Officer
1500 Mission 66
Vicksburg, MS 39180

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

KEVIN W. FRYE
1100 Tyler Avenue, Suite 101
Oxford, Mississippi 38655

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Arthur Johnston

*CLERK OF COURT*

Date: 04/04/2025

C. Smith

*Signature of Clerk or Deputy Clerk*

FORM 6 (ND/SD MISS. DEC. 2016)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI

MELISSA BROOME Plaintiff

v. CIVIL ACTION NO. 3:25-cv-234-DPJ-ASH

VICKSBURG WARREN SCHOOL DISTRICT Defendant

# APPLICATION FOR ADMISSION PRO HAC VICE

(A) Name: Janet Heather Goode

Firm Name: Goode Law

Office Address: 917 S. Cooper Street

City: Memphis State TN Zip 38104

Telephone: (901) 308-7511 Fax: _____

E-Mail: janet@janetgoodelaw.com

(B) Client(s): Melissa Broome

Address: _____

City: Vicksburg State MS Zip _____

Telephone: (601) 218-5497 Fax: _____

The following information is optional:

Have you had a prior or continuing representation in other matters of one or more of the clients you propose to represent, and is there a relationship between those other matter(s) and the proceeding for which you seek admission?

No.

Do you have any special experience, expertise, or other factor that you believe makes it particularly desirable that you be permitted to represent the client(s) you propose to represent in this case?

Yes. I am a civil rights lawyer with particular experience with special education and disability rights for children. There are very few lawyers in the country, and particularly very few lawyers in Mississippi, who practice in these areas.

(C) I am admitted to practice in the:

☑ State of Tennessee, New York, Pennsylvania, and Michigan

☐ District of Columbia

and I am currently in good standing with that Court. A certificate to that effect, issued by the appropriate licensing authority within ninety days of the date of this Application, is enclosed; the physical address, telephone number and website/email address for that admitting Court are:

Tennessee
Appellate Court Clerk
100 Supreme Court Building
401 7th Ave North
Nashville, TN 37219-1407
Phone: 615-741-2681

New York
Supreme Court, Appellate Division
Third Judicial Department
Admissions Office
P.O. Box 7350, Capitol Station
Albany, NY 12224-0350
Phone: (518) 471-4778

Pennsylvania
Supreme Court of Pennsylvania
414 Grant Street
City-County Building
Suite 801
Pittsburgh, PA 15219
Phone: 412-565-2816

All other courts before which I have been admitted to practice:

Michigan
Supeme Court Clerk
925 W. Ottawa Street,
Lansing, MI 48915
Phone: 517-373-0120

| Jurisdiction | Period of Admission |
|---|---|
| United States District Court, Western District of Pennsylvania | 2007-present |
| United States District Court, Western District of Tennessee | 2020-present |
| United States District Court, Middle District of Tennessee | 2020-present |
| United States District Court, District of Maryland | 2020-present |
| United States District Court, Southern District of New York | 2021-present |
| United States Court of Appeals for the Sixth Circuit | 2021-present |

| | | Yes | No |
|---|---|---|---|
| (D) | Have you been denied admission pro hac vice in this state? | ○ | ◉ |
| | Have you had admission pro hac vice revoked in this state? | ○ | ◉ |
| | Has Applicant been formally disciplined or sanctioned by any court in this state in the last five years? | ○ | ◉ |

If the answer was "yes," describe, as to each such proceeding, the nature of the allegations, the name of the person or authority bringing such proceedings; the dates the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings:

| | | Yes | No |
|---|---|---|---|
| (E) | Has any formal, written disciplinary proceeding ever been brought against you by a disciplinary authority in any other jurisdiction within the last five years? | ○ | ◉ |

If the answer was "yes," describe, as to each such proceeding, the nature of the allegations; the name of the person or authority bringing such proceedings; the date the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings.

| | | Yes | No |
|---|---|---|---|
| (F) | Have you been formally held in contempt or otherwise sanctioned by any court in a written order in the last five years for disobeying its rules or orders? | ○ | ◉ |

If the answer was "yes," describe, as to each such order, the nature of the allegations, the name of the court before which such proceedings were conducted; the date of the contempt order or sanction, the caption of the proceedings, and the substances of the court's rulings (a copy of the written order or transcript of the oral rulings must be attached to the application).

(G) Please identify each proceeding in which you have filed an application to proceed pro hac vice in this state within the preceding two years, as follows:

| Name and Address of Court | Date of Application | Outcome of Application |
|---|---|---|
| Mississippi Supreme Court<br>Clerk's Office<br>P O Box 249<br>Jackson, MS 39205 | October 18, 2021 | granted on November 9, 2021 (although this was more than 2 years ago, the case continued until last year — see below answer to (H)) |
| United States District Court<br>Souther District of Mississippi<br>Dan M. Russell, Jr., United States Courthouse<br>2012 15th Street, Suite 403<br>Gulfport, MS 39501 | April 3, 2025 | pending |

(H) Please identify each case in which you have appeared as counsel pro hac vice in this state within the immediately preceding twelve months, are presently appearing as counsel pro hac vice, or have pending applications for admission to appear pro hac vice, as follows:

| Name and Address of Court | Style of Case |
|---|---|
| Mississippi Supreme Court<br>Clerk's Office<br>P O Box 249<br>Jackson, MS 39205 | Trina Johnson o/b/o Treunah Johnson v. Harrison County School District<br>Case No.: D04282020-25<br>BEFORE THE MISSISSIPPI DEPARTMENT OF EDUCATION<br>OFFICE OF SPECIAL EDUCATION |
| United States District Court, SDMS<br>Dan M. Russell, Jr., United States Courthouse<br>2012 15th Street, Suite 403<br>Gulfport, MS 39501 | Trina Johnson o/b/o Treunah Johnson v. Harrison County School District<br>Civil Action No.:1:24cv370 TBM-BWR<br>UNITED STATES DISTRICT COURT<br>SOUTHERN DISTRICT OF MISSISSIPPI<br>SOUTHERN DIVISION |

| | Yes | No |
|---|---|---|
| (I) Have you read and become familiar with all the LOCAL UNIFORM CIVIL RULES OF THE UNITED STATES DISTRICT COURTS FOR THE NORTHERN AND SOUTHERN DISTRICTS OF MISSISSIPPI? | ◉ | ○ |
| Have you read and become familiar with the MISSISSIPPI RULES OF PROFESSIONAL CONDUCT? | ◉ | ○ |

(J) Please provide the following information about the resident attorney who has been associated for this case:

Name and Bar Number Kevin W. Frye, MSB # 101871

Firm Name: Kevin W. Frye, PLLC

Office Address: 1100 Tyler Avenue, Suite 101

City: Oxford State: MS Zip: 38655

Telephone: 662.259.0050 Fax: 866.710.3841

Email address: kwf@kevinwfrye.com

(K) The undersigned resident attorney certifies that he/she agrees to the association with Applicant in this matter and to the appearance as attorney of record with Applicant.

Resident Attorney

I certify that the information provided in this Application is true and correct.

April 4, 2025
Date

Applicant's Handwritten Signature

Unless exempted by Local Rule 83.1(d)(5), the application fee established by this Court must be enclosed with this Application.

CERTIFICATE OF SERVICE

The undersigned Resident Attorney certifies that a copy of this Application for Admission Pro Hac Vice has been mailed or otherwise served on this date on all parties who have appeared in this case.

This the 4th day of April, 2025.

Resident Attorney

# *Supreme Court of Tennessee*

# *Certificate of Good Standing*

*I, James M. Hivner, Clerk of the Supreme Court of the State of Tennessee, do hereby certify that*

*Janet Heather Goode*

*is a licensed and practicing attorney of the Courts of this State, having been admitted to practice on August 18, 2017, and is presently in good standing. The Supreme Court is the Court of last resort in Tennessee.*

*In testimony whereof, I have set my hand and affixed the seal of the Court on this the 24th day of March, 2025.*

*James M. Hivner*
*Clerk of the Supreme Court of Tennessee*

SEAL OF THE TENNESSEE JUDICIARY
FIAT JUSTITIA RUAT COELUM
1796

*By:* Donna Gilmore
*Donna Gilmore, D.C.*

*Appellate Division of the Supreme Court*
*of the State of New York*
*Third Judicial Department*

---

*I, Robert D. Mayberger, Clerk of the Appellate Division of the Supreme Court of the State of New York, Third Judicial Department, do hereby certify that*

## *Janet Heather Goode*

*was duly licensed and admitted to practice as an Attorney and Counselor at Law in all the courts of this State on* ***August 27, 2003****, has duly taken and subscribed the oath of office prescribed by law, has been enrolled in the Roll of Attorneys and Counselors at Law on file in this office, is duly registered with the Office of Court Administration, and according to the records of this Court is currently in good standing as an Attorney and Counselor-at-Law.*

*In Witness Whereof, I have hereunto set my hand in the City of Albany on March 7, 2025.*

Robert D Mayberger

*Clerk of the Court*

*CertID-00218760*

*State of New York*
*Supreme Court, Appellate Division*
*Third Judicial Department*
*Admissions Office*
*P.O. Box 7350, Capitol Station*
*Albany, NY 12224-0350*

*Robert D. Mayberger*
*Clerk of the Court*

*AD3AdmissionsOffice@nycourts.gov*
*http://www.nycourts.gov/ad3/admissions*
*(518) 471-4778*

*Anthony A. Moore*
*Director of Attorney Admissions*

To Whom It May Concern:

An attorney admitted to practice by this Court may request a certificate of good standing, which is the only official document this Court issues certifying to an attorney's admission and good standing.

An attorney's registration status, date of admission and disciplinary history may be viewed through the attorney search feature on the website of the Unified Court System.

New York State does not register attorneys as active or inactive.

An attorney may request a disciplinary history letter from the Attorney Grievance Committee of the Third Judicial Department.

Bar examination history is available from the New York State Board of Law Examiners.

Instructions, forms and links are available on this Court's website.

Robert D. Mayberger
Clerk of the Court

Revised January 2022

Supreme Court of Pennsylvania

# CERTIFICATE OF GOOD STANDING

***Janet Heather Goode, Esq.***

**DATE OF ADMISSION**

***May 10, 2007***

The above named attorney was duly admitted to the bar of the Commonwealth of Pennsylvania, and is now a qualified member in good standing.

SEAL OF THE SUPREME COURT OF PENNSYLVANIA · 1722 ·

**Witness my hand and official seal**
**Dated: March 25, 2025**

Nicole Traini
Chief Clerk

# THE SUPREME COURT OF THE STATE OF MICHIGAN

I, Larry S. Royster, Clerk of the Michigan Supreme Court and Custodian of the Roll of Attorneys admitted to the practice of law in this state, do hereby certify that, as appears from the records,

*JANET GOODE*

was admitted to the practice of law in the courts of the State of Michigan on

*DECEMBER 6, 2018*

Ms. Goode had no disciplinary actions against her and was in good standing as an attorney at the time she went on voluntary inactive status with the State Bar of Michigan on October 5, 2024.

In Testimony Whereof, I set my hand and affix the seal of the Michigan Supreme Court on this date: March 31, 2025.

Clerk

FORM 6 (ND/SD MISS. DEC. 2016)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI

MELISSA BROOME Plaintiff

v.

CIVIL ACTION
NO. 3:25-cv-234-DPJ-ASH

VICKSBURG WARREN SCHOOL Defendant

APPLICATION FOR ADMISSION PRO HAC VICE

(A) Name: Justin S. Gilbert

Firm Name: Gilbert Law, PLC

Office Address: 100 W. MLK Blvd Suite 501

City: Chattanooga State: TN Zip: 37402

Telephone: 423.756.8203 Fax: _____

E-Mail: justin@schoolandworklaw.com

(B) Client(s): MelissaBroome

Address: _____

City: Vicksburg State: MS Zip: _____

Telephone: 601.218.5497 Fax: _____

The following information is optional:

Have you had a prior or continuing representation in other matters of one or more of the clients you propose to represent, and is there a relationship between those other matter(s) and the proceeding for which you seek admission?

No

Do you have any special experience, expertise, or other factor that you believe makes it particularly desirable that you be permitted to represent the client(s) you propose to represent in this case?

Yes, I have thirty years experience in employment and education law, and Ms. Broome's case lies at the intersection of each. There are hardly any attorneys in Mississippi that practice in the area of special education law.

(C) I am admitted to practice in the:

☑ State of Tennessee

☐ District of Columbia

and I am currently in good standing with that Court. A certificate to that effect, issued by the appropriate licensing authority within ninety days of the date of this Application, is enclosed; the physical address, telephone number and website/email address for that admitting Court are:

Tennessee Appellate Court Clker
100 Supreme Court Building
401 7th Ave North
Nashville, TN 37219-1407
Phone:615-741-2681

(*This is forthcoming, as it is being requested)

All other courts before which I have been admitted to practice:

| Jurisdiction | Period of Admission |
|---|---|
| United States District Court--WD, Middle District, Eastern Dist Tennessee | 1995 (approx) - present |

| | | Yes | No |
|---|---|---|---|
| (D) | Have you been denied admission pro hac vice in this state? | ○ | ◉ |
| | Have you had admission pro hac vice revoked in this state? | ○ | ◉ |
| | Has Applicant been formally disciplined or sanctioned by any court in this state in the last five years? | ○ | ◉ |

If the answer was "yes," describe, as to each such proceeding, the nature of the allegations, the name of the person or authority bringing such proceedings; the dates the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings:

| | | Yes | No |
|---|---|---|---|
| (E) | Has any formal, written disciplinary proceeding ever been brought against you by a disciplinary authority in any other jurisdiction within the last five years? | ○ | ◉ |

If the answer was "yes," describe, as to each such proceeding, the nature of the allegations; the name of the person or authority bringing such proceedings; the date the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings.

(F) Have you been formally held in contempt or otherwise sanctioned by any court in a written order in the last five years for disobeying its rules or orders?

| Yes | No |
|---|---|
| ○ | ◉ |

If the answer was "yes," describe, as to each such order, the nature of the allegations, the name of the court before which such proceedings were conducted; the date of the contempt order or sanction, the caption of the proceedings, and the substances of the court's rulings (a copy of the written order or transcript of the oral rulings must be attached to the application).

(G) Please identify each proceeding in which you have filed an application to proceed pro hac vice in this state within the preceding two years, as follows:

| Name and Address of Court | Date of Application | Outcome of Application |
|---|---|---|
| None | | |

(H) Please identify each case in which you have appeared as counsel pro hac vice in this state within the immediately preceding twelve months, are presently appearing as counsel pro hac vice, or have pending applications for admission to appear pro hac vice, as follows:

| Name and Address of Court | Style of Case |
|---|---|
| None | |

| | | Yes | No |
|---|---|---|---|
| (I) | Have you read and become familiar with all the LOCAL UNIFORM CIVIL RULES OF THE UNITED STATES DISTRICT COURTS FOR THE NORTHERN AND SOUTHERN DISTRICTS OF MISSISSIPPI? | ◉ | ○ |
| | Have you read and become familiar with the MISSISSIPPI RULES OF PROFESSIONAL CONDUCT? | ◉ | ○ |

(J) Please provide the following information about the resident attorney who has been associated for this case:

Name and Bar Number Kevin W. Frye, MSB #101871

Firm Name: Kevin W. Frye, PLLC

Office Address: 1100 Tyler Ave, Suite 101

City: Oxford State: MS Zip: 38655

Telephone: 662.259.0050 Fax: 866.710.3841

Email address:

(K) The undersigned resident attorney certifies that he/she agrees to the association with Applicant in this matter and to the appearance as attorney of record with Applicant.

Resident Attorney

I certify that the information provided in this Application is true and correct.

4-3-2025
Date

Applicant's Handwritten Signature

Unless exempted by Local Rule 83.1(d)(5), the application fee established by this Court must be enclosed with this Application.

CERTIFICATE OF SERVICE

The undersigned Resident Attorney certifies that a copy of this Application for Admission Pro Hac Vice has been mailed or otherwise served on this date on all parties who have appeared in this case.

This the 4th day of April, 2025.

Resident Attorney

FORM 6 (ND/SD MISS. DEC. 2016)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI

MELISSA BROOME Plaintiff

v.

CIVIL ACTION
NO. 3:25-cv-234-DPJ-ASH

VICKSBURG WARREN SCHOOL Defendant

APPLICATION FOR ADMISSION PRO HAC VICE

(A) Name: Justin S. Gilbert

Firm Name: Gilbert Law, PLC

Office Address: 100 W. MLK Blvd Suite 501

City: Chattanooga State: TN Zip: 37402

Telephone: 423.756.8203 Fax:

E-Mail: justin@schoolandworklaw.com

(B) Client(s): MelissaBroome

Address:

City: Vicksburg State: MS Zip:

Telephone: 601.218.5497 Fax:

The following information is optional:

Have you had a prior or continuing representation in other matters of one or more of the clients you propose to represent, and is there a relationship between those other matter(s) and the proceeding for which you seek admission?

No

Do you have any special experience, expertise, or other factor that you believe makes it particularly desirable that you be permitted to represent the client(s) you propose to represent in this case?

Yes, I have thirty years experience in employment and education law, and Ms. Broome's case lies at the intersection of each. There are hardly any attorneys in Mississippi that practice in the area of special education law.

(C) I am admitted to practice in the:

☑ State of Tennessee

☐ District of Columbia

and I am currently in good standing with that Court. A certificate to that effect, issued by the appropriate licensing authority within ninety days of the date of this Application, is enclosed; the physical address, telephone number and website/email address for that admitting Court are:

Tennessee Appellate Court Clker
100 Supreme Court Building
401 7th Ave North
Nashville, TN 37219-1407
Phone:615-741-2681

(*This is forthcoming, as it is being requested)

All other courts before which I have been admitted to practice:

| Jurisdiction | Period of Admission |
|---|---|
| United States District Court--WD, Middle District, Eastern Dist Tennessee | 1995 (approx) - present |

| | | Yes | No |
|---|---|---|---|
| (D) | Have you been denied admission pro hac vice in this state? | ○ | ◉ |
| | Have you had admission pro hac vice revoked in this state? | ○ | ◉ |
| | Has Applicant been formally disciplined or sanctioned by any court in this state in the last five years? | ○ | ◉ |

If the answer was "yes," describe, as to each such proceeding, the nature of the allegations, the name of the person or authority bringing such proceedings; the dates the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings:

| | | Yes | No |
|---|---|---|---|
| (E) | Has any formal, written disciplinary proceeding ever been brought against you by a disciplinary authority in any other jurisdiction within the last five years? | ○ | ◉ |

If the answer was "yes," describe, as to each such proceeding, the nature of the allegations; the name of the person or authority bringing such proceedings; the date the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings.

| | | Yes | No |
|---|---|---|---|
| (F) | Have you been formally held in contempt or otherwise sanctioned by any court in a written order in the last five years for disobeying its rules or orders? | ○ | ◉ |

If the answer was "yes," describe, as to each such order, the nature of the allegations, the name of the court before which such proceedings were conducted; the date of the contempt order or sanction, the caption of the proceedings, and the substances of the court's rulings (a copy of the written order or transcript of the oral rulings must be attached to the application).

(G) Please identify each proceeding in which you have filed an application to proceed pro hac vice in this state within the preceding two years, as follows:

| Name and Address of Court | Date of Application | Outcome of Application |
|---|---|---|
| None | | |

(H) Please identify each case in which you have appeared as counsel pro hac vice in this state within the immediately preceding twelve months, are presently appearing as counsel pro hac vice, or have pending applications for admission to appear pro hac vice, as follows:

| Name and Address of Court | Style of Case |
|---|---|
| None | |

| | | Yes | No |
|---|---|---|---|
| (I) | Have you read and become familiar with all the LOCAL UNIFORM CIVIL RULES OF THE UNITED STATES DISTRICT COURTS FOR THE NORTHERN AND SOUTHERN DISTRICTS OF MISSISSIPPI? | ◉ | ○ |
| | Have you read and become familiar with the MISSISSIPPI RULES OF PROFESSIONAL CONDUCT? | ◉ | ○ |

(J) Please provide the following information about the resident attorney who has been associated for this case:

Name and Bar Number Kevin W. Frye, MSB #101871

Firm Name: Kevin W. Frye, PLLC

Office Address: 1100 Tyler Ave, Suite 101

City: Oxford State: MS Zip: 38655

Telephone: 662.259.0050 Fax: 866.710.3841

Email address:

(K) The undersigned resident attorney certifies that he/she agrees to the association with Applicant in this matter and to the appearance as attorney of record with Applicant.

Resident Attorney

I certify that the information provided in this Application is true and correct.

4-3-2025
Date

Applicant's Handwritten Signature

Unless exempted by Local Rule 83.1(d)(5), the application fee established by this Court must be enclosed with this Application.

CERTIFICATE OF SERVICE

The undersigned Resident Attorney certifies that a copy of this Application for Admission Pro Hac Vice has been mailed or otherwise served on this date on all parties who have appeared in this case.

This the 4th day of April, 2025.

Resident Attorney

# *Supreme Court of Tennessee*

# *Certificate of Good Standing*

*I, James M. Hivner, Clerk of the Supreme Court of the State of Tennessee, do hereby certify that*

## *Justin Scott Gilbert*

*is a licensed and practicing attorney of the Courts of this State, having been admitted to practice on June 22, 1995, and is presently in good standing. The Supreme Court is the Court of last resort in Tennessee.*

*In testimony whereof, I have set my hand and affixed the seal of the Court on this the 11th day of April, 2025.*

*James M. Hivner*
*Clerk of the Supreme Court of Tennessee*

SEAL OF THE TENNESSEE JUDICIARY
FIAT JUSTITIA RUAT COELUM
1796

*By:* Donna Gilmore
*Donna Gilmore, D.C.*

AO 440 (Rev. 06/12) Summons in a Civil Action

# UNITED STATES DISTRICT COURT

for the

Melissa Broome

*Plaintiff(s)*

v.

Vicksburg Warren School District

*Defendant(s)*

Civil Action No. 3:25-cv-234-DPJ-ASH

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Vicksburg Warren School District
c/o Highest Ranking Officer
1500 Mission 66
Vicksburg, MS 39180

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

KEVIN W. FRYE
1100 Tyler Avenue, Suite 101
Oxford, Mississippi 38655

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Arthur Johnston

*CLERK OF COURT*

Date: 04/04/2025

C. Smith

*Signature of Clerk or Deputy Clerk*

Civil Action No. 3:25-cv-234-DPJ-ASH

## PROOF OF SERVICE

***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))***

This summons for *(name of individual and title, if any)* VICKSBURG WARREN SCHOOL DISTRICT was received by me on *(date)* Apr 15, 2025.

☐ I personally served the summons on the individual at *(place)* _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____, a person of suitable age and discretion who resides there, at the address of _____ on *(date)* _____, and mailed a copy to the individual's last known address; or

☒ I served the summons on *(name of individual)* Cathy Sanford, Executive Administrator Assistant, who is designated by law to accept service of process on behalf of *(name of organization)* VICKSBURG WARREN SCHOOL DISTRICT at the address of 1500 MISSION 66, VICKSBURG, MS 39180 on *(date)* Wed, Apr 16 2025; or

☐ I returned the summons unexecuted because: _____; or

☐ Other: _____; or

My fees are $ _____ for travel and $ _____ for services, for a total of $ _____.

I declare under penalty of perjury that this information is true.

Date: Apr 16, 2025

_____
*Server's signature*

Jacqueline Young
_____
*Printed name and title*

Quantum Process, LLC 418 Pittman Rd., Ellisville, MS 39437
(601)800-2004
_____
*Server's address*

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

**MELISSA BROOME** **PLAINTIFF**

**VS.** **CIVIL NO.: 3:25-CV-234-DPJ-ASH**

**VICKSBURG WARREN SCHOOL DISTRICT** **DEFENDANT**

---

**MOTION FOR EXTENSION TO FILE ANSWER AND AFFIRMATIVE DEFENSES**

---

Defendant, by and through undersigned counsel, respectfully moves this Court for a 30-day extension of time to file its Answer and Affirmative Defenses, and in support thereof states as follows:

1. Defendant's Answer and Affirmative Defenses were due on May 7, 2025.

2. Due to an administrative oversight, defense counsel did not receive this matter until well after service, and it was only cleared for action by defense counsel today, May 8, 2025.

3. Upon reviewing the docket today, defense counsel discovered that the deadline to file the Answer and Affirmative Defenses had passed as of yesterday, May 7, 2025. Accordingly, Defendant is requesting a 30-day extension to file its Answer and Affirmative Defenses in this matter.

4. This motion is filed in good faith and not for purposes of delay or harassment. Granting the requested extension will not result in prejudice to any party.

5. Defense counsel has reached out to Plaintiff's counsel today to inquire whether they oppose this request, but as of the time of this filing, no response has been received.

6. Out of an abundance of caution and in good faith, Defendant files this motion despite not

yet having received a response from Plaintiff's counsel regarding whether they oppose the requested extension. Defendant is not suggesting any wrongdoing or delay on the part of Plaintiff's counsel, as the request was only sent late this afternoon. This motion is being filed promptly to ensure the request is properly before the Court as soon as possible.

WHEREFORE, Defendant respectfully requests that this Court grant a 30-day extension, up to and including June 6, 2025, to file its Answer and Affirmative Defenses, and for such other and further relief as the Court deems just and proper.

This the 8th day of May, 2025.

Respectfully submitted,

**VICKSBURG WARREN SCHOOL DISTRICT**

By: /s/ KaShonda L. Day
*Attorney*

OF COUNSEL:

KaShonda L. Day, Esq. (MS Bar No. 103144)
ADAMS AND REESE LLP
1018 Highland Colony Parkway, Suite 800
Ridgeland, MS 39157
Telephone: 601-292-0785
Facsimile: 601-355-9708
kashonda.day@arlaw.com

**CERTIFICATE OF SERVICE**

I, KaShonda L. Day, Attorney for Defendant, do hereby certify that I have this day filed, with Plaintiff's counsel of record a true and correct copy of the above and foregoing document, which will be distributed via the electronic court filing system.

Dated: May 8, 2025

*/s/ KaShonda L. Day*
KaShonda L. Day, Esq.

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

| | |
|---|---|
| **MELISSA BROOME** | **PLAINTIFF** |
| **VS.** | **CIVIL NO.: 3:25-CV-234-DPJ-ASH** |
| **VICKSBURG WARREN SCHOOL DISTRICT** | **DEFENDANT** |

---

**DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES**

---

COMES NOW Defendant, Vicksburg Warren School District, by and through its counsel of record and files this its Answer and Affirmative Defenses in response to Plaintiff's Complaint ("Complaint") and in support thereof would show unto the Court the following:

The Defendant responds to the allegations in the complaint in a paragraph-by-paragraph format with the number of the response corresponding to the number of the paragraph allegation. In support thereof would show unto the Court the following:

**1. Parties, Jurisdiction, and Venue**

1. Defendant is without sufficient information to admit or deny the allegations contained in paragraph number 1. However, upon information and belief, admitted.

2. Admitted.

3. Denied.

4. Denied.

**2. Facts**

5. Admitted.

6. Admitted.

7. Admitted.

8. Admitted.

*Legally Protected Advocacy*

9. Denied.

10. Denied.

11. Denied.

12. Denied.

13. Denied.

*Adverse Actions Because of Advocacy*

14. Denied.

15. Denied.

16. Denied.

17. Denied.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Denied.

24. Denied.

**III. Legal Causes of Action**

25. The above responses are incorporated, upon which Defendant responds to all causes of actions.

*Counts 1 and 2: ADA and Section 504 Retaliation*

26. Denied.

27. The ADA's anti-retaliation statute speaks for itself.

28. Denied.

29. Denied.

*Count 3: First Amendment Retaliation and Section 1983*

30. Denied.

31. Title 42 U.S.C. §1983 speaks for itself.

32. Denied.

33. Denied.

*Count 4: Fourteenth Amendment Procedural Due Process and Section 1983*

34. Denied.

**IV. Relief**

Plaintiff is not entitled to any relief, including the relief requested in subsections A through H.

**AFFIRMATIVE DEFENSES**

1. Plaintiff's complaint fails to allege sufficient legal facts to support one or more claims, as required under Rule 12(b)(6) of the Federal Rules of Civil Procedure.

2. The court lacks authority to hear the case due to the nature of the claim or the parties involved.

3. The summons or complaint was procedurally defective or failed to comply with the rules.

4. The defendant was not properly served in accordance with the Federal Rules of Civil Procedure.

5. The claim is barred because it was not brought within the time prescribed by law.

6. Plaintiff voluntarily and knowingly relinquished a known legal right, which bars the claim.

7. Plaintiff is not entitled to equitable relief due to bad faith or unethical conduct related to the subject of the complaint.

8. Plaintiff voluntarily assumed the known risks inherent in the activity from which the claim arises.

9. Plaintiff's own negligence contributed to the harm and may bar or reduce recovery.

10. There is no longer a live controversy or legal issue requiring resolution.

11. A necessary event or action (contractual or procedural) did not occur before plaintiff filed the suit.

12. Plaintiff accepted or affirmed the actions or terms they now challenge, preventing them from denying them.

13. Defendant did not owe a legal duty to plaintiff under the circumstances.

14. Defendant's conduct was legally justified or necessary under the circumstances.

15. Defendant acted honestly and without intent to defraud or harm.

16. The injury or damages alleged are too trivial to support a legal claim.

17. Defendant fully complied with all relevant laws or regulations.

18. Enforcement of the claim would violate established public policy or societal interest.

19. Plaintiff did not engage in any activity protected by the ADA or Section 504, such as requesting accommodations, opposing discrimination, or filing a formal complaint.

20. Plaintiff did not suffer a materially adverse action.

21. There is no causal link between the alleged protected activity and the alleged adverse action.

22. Defendant took the challenged action for legitimate, non-discriminatory reasons such as performance, behavior, safety, or administrative need, not in retaliation.

23. Decisions made by the district were not motivated by any retaliatory intent but were based on lawful, documented justifications.

24. Defendant acted in good faith compliance with the ADA, Section 504, and applicable district policies.

25. If Plaintiff's alleged protected activity was a request for accommodation, it was either (a) not reasonable, (b) not denied, or (c) not causally connected to the adverse event.

26. Plaintiff cannot demonstrate that the stated reasons for Defendant's action were a pretext for unlawful retaliation.

27. To recover monetary damages under the ADA or Section 504, Plaintiff must show deliberate indifference, which has not been established.

28. Plaintiff did not engage in conduct protected by the ADA or Section 504. Internal disagreements about instruction, discipline, or policy, without a disability-related basis, do not qualify.

29. Plaintiff was speaking pursuant to official job duties, not as a private citizen, and is therefore not protected under the First Amendment or federal retaliation law.

30. Plaintiff cannot show intentional retaliation.

31. Plaintiff's speech was made pursuant to official duties and is not protected by the First Amendment.

32. Even if made outside job duties, the speech did not involve a matter of public concern and is therefore not protected.

33. Even if the speech involved a matter of public concern, the district's interest in workplace

efficiency, student safety, and institutional control outweighs the employee's speech rights.

34. Plaintiff did not suffer any materially adverse employment action. Disagreement, criticism, or trivial inconveniences do not constitute actionable retaliation.

35. There is no causal relationship between Plaintiff's speech and any employment action taken. The decision was based on independent, legitimate grounds.

36. Any action taken by Defendant was taken for lawful, performance-based, or policy-related reasons unrelated to Plaintiff's speech or expressive conduct.

37. Even if the speech touched on public concern, which it did not, it was disruptive, insubordinate, or otherwise detrimental to the school's educational mission or work.

38. Plaintiff has not suffered an actual deprivation of liberty or property sufficient to trigger procedural due process protections.

39. Plaintiff received constitutionally sufficient notice of the proposed action, the grounds for it, and the procedures available.

40. Plaintiff cannot claim a due process violation unless a final decision was rendered that actually deprived them of a protected right.

41. The school district cannot be held liable unless Plaintiff identifies a specific policy, practice, or custom that was the "moving force" behind the alleged due process violation.

42. Plaintiff has not shown that the decision or conduct in question was carried out or ratified by a final policymaker of the district.

43. Defendant acted in good faith and within the scope of their duties, without intent to deprive Plaintiff of constitutional rights.

44. No conduct by Defendant reflects deliberate indifference to Plaintiff's rights or an intent

to violate due process.

45. Defendant reserves the right to assert additional defenses as they become known during discovery.

WHEREFORE, Defendant respectfully requests that this Court:

- Dismiss this matter with prejudice with all costs and fees assessed to the Plaintiff.
- Award Defendant any relief deemed just and proper.

This the 6th day of June, 2025.

Respectfully submitted,

**VICKSBURG WARREN SCHOOL DISTRICT**

By: /s/ KaShonda L. Day
*Attorney*

OF COUNSEL:

KaShonda L. Day, Esq. (MS Bar No. 103144)
ADAMS AND REESE LLP
1018 Highland Colony Parkway, Suite 800
Ridgeland, MS 39157
Telephone: 601-292-0785
Facsimile: 601-355-9708
kashonda.day@arlaw.com

**CERTIFICATE OF SERVICE**

I, KaShonda L. Day, Attorney for Defendant, do hereby certify that I have this day filed, with Plaintiff's counsel of record a true and correct copy of the above and foregoing document, which will be distributed via the electronic court filing system.

Dated: June 6, 2025

*/s/ KaShonda L. Day*
KaShonda L. Day, Esq.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
FILED
Jun 18 2025
ARTHUR JOHNSTON, CLERK
By: _____, Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

MELISSA BROOME — PLAINTIFF

V. — CIVIL ACTION NO.: 3:25-cv-234-DPJ-ASH

VICKSBURG WARREN SCHOOL DISTRICT — DEFENDANT

## RULE 16(a) INITIAL ORDER

The above-captioned cause is set for a **TELEPHONIC CASE MANAGEMENT CONFERENCE (TCMC)** on **August 12, 2025,** at **2:00 p.m.** before:

United States Magistrate Judge Andrew S. Harris
Thad Cochran United States Courthouse
501 E. Court Street, Suite 5.150
Jackson, MS 39201
Telephone Number to use for TCMC: 601-608-4460
*Harris_Chambers@mssd.uscourts.gov*

Unless otherwise agreed, **it shall be the responsibility of counsel for the plaintiff to initiate the conference call** at the scheduled time. This responsibility, however, rests with counsel for the defendant in cases involving a pro se plaintiff. Please note that the Court does *not* accept call-in instructions. Arrangements should be made to have all attorneys on the telephone and then a call shall be placed to the judge.

**Notice Regarding Possible Sanctions:** The failure of any party to timely submit the proposed Case Management Order or the party's Confidential Memorandum shall require in-person attendance at the conference by all defaulting counsel. All attorneys of record for the defaulting party shall be required to attend and the conference shall not be subject to rescheduling. Sanctions may be imposed at the conference.

## CONFERENCE OF THE PARTIES

**No later than twenty-one (21) days before the TCMC**, counsel and any unrepresented parties shall confer by telephone or in person regarding all matters set forth in Local Rule 26(f). The Local Rules are available on the Court's website at www.mssd.uscourts.gov. Counsel and all unrepresented parties are jointly responsible for arranging this conference of the parties and attempting in good faith to agree on a proposed Case Management Order. A Case Management Order form is available on the Court website and as Form No. 1 in the Local Rules.

## PROPOSED CASE MANAGEMENT ORDER

**No later than seven (7) days before the TCMC**, counsel shall submit a proposed Case Management Order to the Court via e-mail to Harris_Chambers@mssd.uscourts.gov. Counsel and any unrepresented parties shall be prepared to discuss all provisions of the proposed Case Management Order and make any special requests concerning that order at the TCMC.

## CONFIDENTIAL SETTLEMENT MEMORANDA

**No later than seven (7) days before the TCMC**, each party shall submit to the Court via e-mail to Harris_Chambers@mssd.uscourts.gov (for represented parties) or via U.S. Mail at the address above (for unrepresented parties proceeding pro se) a confidential memorandum (3 pages max) setting forth a brief explanation of the case and a candid appraisal of their respective positions, including possible settlement figures. Counsel will also furnish in their memoranda good faith estimates of the expense of carrying the litigation through trial and the appellate process (if not settled) and will have discussed these costs with their respective clients.

These memoranda are not to be exchanged between the parties and will be viewed only by the Court. Further, these memoranda shall not be filed with the Clerk of Court and will not become a part of the record. For parties represented by counsel, please do not mail a separate copy of the memorandum to the Court.

## CASE MANAGEMENT PLAN

At the TCMC, the Court and the parties shall be prepared to:

1. Identify the principal factual and legal issues in dispute;
2. Identify the alternative dispute resolution procedure which counsel intend to use, or report specifically why no such procedure would assist in the resolution of the case;
3. Indicate whether all parties consent to jurisdiction by a magistrate judge;
4. Review the parties' compliance with their disclosure obligations (including Fed. R. Civ. P. 7.1 and 26(a)(1)) and consider whether to order additional disclosures;
5. Determine whether to order early filing of any motions that might significantly affect the scope of discovery or other aspects of the litigation, and provide for the staged resolution or bifurcation of issues for trial consistent with Fed. R. Civ. P. 42(b);
6. Determine the plan for at least the first stage of discovery, impose limitations on each discovery tool, and address time periods and other appropriate matters;
7. Determine the date for the Local Rule 26(g) settlement conference or mediation;
8. Discuss scheduling and set appropriate deadlines, including dates for a settlement conference, completion of discovery, motions, the final pretrial conference, and trial (the parties should be prepared to discuss prior conflicts with the trial date); and,
9. Verify that counsel is registered for electronic document filing and familiar with the Administrative Procedures for Electronic Filing.

**FINAL CASE MANAGEMENT ORDER**

The Court will enter the final Case Management Order and docket the deadlines in the case within ten (10) days of the TCMC.

Date: June 18, 2025

/s/ Andrew S. Harris
United States Magistrate Judge

**Last Updated: Jan 2022**

FORM 1 (ND/SD MISS. JAN 2022)

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
AUG 14 2025
ARTHUR JOHNSTON
BY _____ DEPUTY

**UNITED STATES DISTRICT COURT**
**SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

MELISSA BROOME

**PLAINTIFF**

v.

**CIVIL ACTION**
**NO. 3:25-cv-234-DPJ-ASH**

VICKSBURG WARREN SCHOOL DISTRICT

**DEFENDANT**

# CASE MANAGEMENT ORDER

This Order, including all deadlines, has been established with the participation of all parties and can be modified only by order of the Court on a showing of good cause supported with affidavits, other evidentiary materials, or reference to portions of the record.

**IT IS HEREBY ORDERED:**

1. **ESTIMATED DAYS OF TRIAL:** 3

   **ESTIMATED TOTAL NUMBER OF WITNESSES:** 5

   **EXPERT TESTIMONY EXPECTED:** No

2. **ALTERNATIVE DISPUTE RESOLUTION [ADR].** (Pick one)

   Alternative dispute resolution techniques appear helpful and will be used in this civil action as follows:

   Private mediation or a settlement conference with the Court is required.

3. **CONSENT TO TRIAL BY UNITED STATES MAGISTRATE JUDGE.** (Pick one)

   The parties do not consent to trial by a United States Magistrate Judge.

4. **DISCLOSURE.** (Pick one)

The following additional disclosure is needed and is hereby ordered:

The parties shall fully comply with the pre-discovery disclosure requirements of Fed. R. Civ. P. 26(a)(1) and L.U. Civ. R. 16(d) and 26(a) by August 26, 2025.

5. **MOTIONS; ISSUE BIFURCATION.** (Pick one)

Staged resolution/bifurcation of the trial issues will not assist in the prompt resolution of this action.

Statement Not Applicable.

6. **DISCOVERY PROVISIONS AND LIMITATIONS.**

**A.** Interrogatories are limited to 25 succinct questions.

**B.** Requests for Production are limited to 40 succinct questions.

**C.** Requests for Admissions are limited to 40 succinct questions.

**D.** Depositions are limited to the parties, experts, and no more than

4 fact witness depositions per party without additional approval of the Court.

**E.** The parties have complied with the requirements of Local Rule 26(f)(2)(B) regarding discovery of electronically stored information and have concluded as follows:

The parties agree to produce ESI in PDF or native format and to confer over any disputes related to metadata or formatting.

**F.** The court imposes the following further discovery provisions or limitations:

☐ 1. The parties have agreed that defendant may obtain a Fed.R.Civ. P. 35 (L.U.Civ.R. 35) medical examination of the plaintiff (within subpoena range of the court) by a physician who has not examined the plaintiff, and that defendant may arrange the examination without further order of the court. The examination must be completed in time to comply with expert designation discovery deadlines.

☐ 2. Pursuant to FED.R.EVID. 502(d), the attorney-client privilege and the work-product protections are not waived by any disclosure connected within this litigation pending before this Court. Further, the disclosures are not waived in any other federal or state proceeding.

☐ 3. Plaintiff must execute an appropriate, HIPAA-compliant medical authorization.

☑ 4. The court desires to avoid the necessity of filing written discovery motions where court participation in an informal discussion of the issue might resolve it, even after the parties have been unsuccessful in a good faith attempt to do so. Consequently, before a party may serve any discovery motion, counsel must first confer in good faith as required by Fed. R. Civ. P. 37(a)(1). If the attorney conference does not resolve the dispute, counsel must contact the chambers of the magistrate judge to request a telephonic conference to discuss the issue as contemplated by Fed. R. Civ. P.16(b)(3)(B)(v). Only if the telephonic conference with the judge is unsuccessful in resolving the issue may a party file a discovery motion.

☐ 5. Other:

Additional information:

7. **SCHEDULING DEADLINES**

**A. Trial.** This action is set for JURY TRIAL during a two-week term of court beginning on: September 1, 2026, at 9:00, a.m., in Jackson, Mississippi, before United States District Judge Daniel P. Jordan III.

THE ESTIMATED NUMBER OF DAYS FOR TRIAL IS 3. ANY CONFLICTS WITH THIS TRIAL DATE MUST BE SUBMITTED IN WRITING TO THE TRIAL JUDGE IMMEDIATELY UPON RECEIPT OF THIS CASE MANAGEMENT ORDER.

**B. Pretrial.** The pretrial conference is set on: August 14, 2026, at 9:00, a.m., in Jackson, Mississippi, before United States District Judge Daniel P. Jordan III.

**C. Discovery.** All discovery must be completed by: March 18, 2026.

**D. Amendments.** Motions for joinder of parties or amendments to the pleadings must be filed by: September 11, 2025.

**E. Experts.** The parties' experts must be designated by the following dates:

**1.** Plaintiff(s): December 18, 2025.

**2.** Defendant(s): January 19, 2026.

8. **MOTIONS.** All dispositive motions and *Daubert*-type motions challenging another party's expert must be filed by: April 1, 2026 .The deadline for motions *in limine* is twenty-one (21) calendar days prior to the pretrial conference; the deadline for responses is fourteen (14) calendar days before the pretrial conference.

9. **SETTLEMENT CONFERENCE.**

A SETTLEMENT CONFERENCE is set on: March 26, 2026 , at 9:00 , a.m. in Jackson , Mississippi, before United States Magistrate Judge Andrew S. Harris .

Seven (7) days before the settlement conference, the parties must submit via e-mail to the magistrate judge's chambers an updated CONFIDENTIAL SETTLEMENT MEMORANDUM. All parties are required to be present at the conference unless excused by the Court. If a party believes the scheduled settlement conference would not be productive and should be cancelled, the party is directed to inform the Court via e-mail of the grounds for their belief at least seven (7) days prior to the conference.

10. **REPORT REGARDING ADR.** On or before (7 days before FPTC) August 7, 2026 , the parties must report to the undersigned all ADR efforts they have undertaken to comply with the Local Rules or provide sufficient facts to support a finding of just cause for failure to comply. *See L.U.Civ.R.83.7(f)(3).*

**SO ORDERED:**

August 14, 2025
DATE

/s/ Andrew S. Harris
UNITED STATES MAGISTRATE JUDGE

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

**MELISSA BROOME** **PLAINTIFF**

**VS.** **CIVIL NO.: 3:25-CV-234-DPJ-ASH**

**VICKSBURG WARREN SCHOOL DISTRICT** **DEFENDANT**

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**NOTICE OF SERVICE OF DEFENDANT'S INITIAL DISCLOSURES PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 26(A)(1)**

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Defendant Vicksburg Warren School District ("VWSD") hereby gives notice that, pursuant to Federal Rule of Civil Procedure 26(a)(1), it has served, via electronic mail, its Initial Disclosures on counsel for Plaintiff on November 14, 2025.

This the 14th day of November, 2025.

Respectfully submitted,

**VICKSBURG WARREN SCHOOL DISTRICT**

By: /s/ KaShonda L. Day
*Attorney*

OF COUNSEL:

KaShonda L. Day, Esq. (MS Bar No. 103144)
ADAMS AND REESE LLP
1018 Highland Colony Parkway, Suite 800
Ridgeland, MS 39157
Telephone: 601-292-0785
Facsimile: 601-355-9708
kashonda.day@arlaw.com

**CERTIFICATE OF SERVICE**

I, KaShonda L. Day, Attorney for Defendant, do hereby certify that I have this day filed, with Plaintiff's counsel of record a true and correct copy of the above and foregoing document, which will be distributed via the electronic court filing system.

Dated: November 14, 2025

*/s/ KaShonda L. Day*
KaShonda L. Day, Esq.

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

**MELISSA BROOME** **PLAINTIFF**

**VS.** **CIVIL NO.: 3:25-CV-234-DPJ-ASH**

**VICKSBURG WARREN SCHOOL DISTRICT** **DEFENDANT**

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## NOTICE OF APPEARANCE

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Please take notice that Mary Clark Joyner of Adams & Reese LLP enters her appearance in this case as additional counsel of record for Vicksburg Warren School District and requests that copies of all pleadings, notices, correspondence, and other matters which relate to this litigation be served upon her.

Respectfully submitted, this the 18th day of November 2025.

**VICKSBURG WARREN SCHOOL DISTRICT**

By: */s/ Mary Clark Joyner*

OF COUNSEL:

KaShonda L. Day (MS Bar No. 103144)
Mary Clark Joyner (MS Bar No, 105954)
ADAMS & REESE LLP
1018 Highland Colony Parkway, Suite 800
Ridgeland, MS 39157
Telephone: 601-353-3234
Facsimile: 601-355-9708
kashonda.day@arlaw.com
maryclark.joyner@arlaw.com

**CERTIFICATE OF SERVICE**

I do hereby certify that I have this day electronically filed the foregoing document with the Clerk of the Court using the ECF filing system, which sent notification of such filing to all counsel of record.

DATE: November 18, 2025.

*/s/ Mary Clark Joyner*
Mary Clark Joyner

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

**MELISSA BROOME** **PLAINTIFF**

**VS.** **CIVIL NO.: 3:25-CV-234-DPJ-ASH**

**VICKSBURG WARREN SCHOOL DISTRICT** **DEFENDANT**

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**RULE 12(c) MOTION FOR JUDGMENT ON THE PLEADINGS**
**FOR FAILURE TO STATE A CLAIM**

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Defendant Vicksburg Warren School District ("VWSD" or "the District"), by and through undersigned counsel, moves for judgment on the pleadings under Federal Rule of Civil Procedure 12(c) for failure to state a claim upon which relief can be granted, and states as follows:

1. The pleadings are closed within the meaning of Rule 12(c): Plaintiff has filed her Complaint (ECF No. 1), and the District has filed its Answer (ECF No. 8).
2. Taking Plaintiff's well-pleaded factual allegations as true for purposes of this motion only, and drawing all reasonable inferences in her favor, the Complaint nonetheless fails to state any claim upon which relief can be granted against the District.
3. Plaintiff's ADA Title II and Rehabilitation Act § 504 retaliation claims fail as a matter of law, because:
    a. Title II does not provide a cause of action for employment-based claims by public employees, and Plaintiff has not invoked or exhausted Title I;
    b. Plaintiff has not plausibly alleged any protected activity under the ADA or § 504;

c. the alleged actions (reprimands, professional development directives, removal from IEP duties, a brief suspension, and speculative nonrenewal) do not support a plausible claim of materially adverse action or but-for causation; and

d. Plaintiff has not alleged intentional discrimination or deliberate indifference sufficient to support compensatory damages under § 504/Title II.

4. To the extent the Complaint could be construed as asserting or relying on IDEA/FAPE issues, Plaintiff is not a proper party to bring such claims on behalf of a student and, in any event, has not alleged IDEA administrative exhaustion.

5. Plaintiff's First Amendment retaliation claim under 42 U.S.C. § 1983 fails because:

a. Her IEP-meeting speech, by her own allegations, was made pursuant to her official duties as a special education teacher and is therefore not protected citizen speech under *Garcetti v. Ceballos*, 547 U.S. 410 (2006);

b. The speech did not address a matter of public concern under *Connick v. Myers*, 461 U.S. 138 (1983);

c. The alleged actions do not constitute a materially adverse employment action, and Plaintiff has not plausibly alleged causation; and

d. She has not alleged any municipal policy, custom, or final policymaker action as required for *Monell v. Department of Social Services*, 436 U.S. 658 (1978) liability.

6. Plaintiff's Fourteenth Amendment procedural due process claim under § 1983 also fails because:

a. She has no constitutionally protected property interest in renewal of her one-year teaching contract under Mississippi and federal law;

b. The alleged two-day unpaid suspension, on the facts pleaded, does not amount to a federal due process violation where she received notice of the charge and an opportunity to respond; and

c. As with her First Amendment claim, she has not alleged any District policy, custom, or final policymaker action sufficient to establish municipal liability under *Monell*.

7. Plaintiff's damages theories under § 504 and Title II are limited as a matter of law. Plaintiff appears to seek compensatory damages, including alleged harm to reputation, pain and suffering, humiliation and embarrassment, and emotional harm. To the extent these requested compensatory damages are based on emotional distress, such relief is unavailable under § 504 and Title II. Plaintiff does not expressly request punitive damages; in any event, punitive damages are unavailable under § 504 and Title II, and the District, as a municipal entity, is immune from punitive damages under § 1983.

8. Plaintiff also lacks Article III standing to seek broad declaratory and injunctive relief because the Complaint alleges only past, discrete events and no real and immediate threat of future injury.

9. The grounds for this motion are set forth more fully in the contemporaneously filed Memorandum of Law in Support of Rule 12(c) Motion for Judgment on the Pleadings for Failure to State a Claim, which is incorporated herein by reference.

10. The defects in the Complaint are legal and structural, and amendment would be futile. Dismissal should therefore be with prejudice.

WHEREFORE, PREMISES CONSIDERED, Defendant Vicksburg Warren School District respectfully requests that the Court:

1. Grant this Rule 12(c) Motion for Judgment on the Pleadings;

2. Dismiss Plaintiff's Complaint in its entirety, with prejudice; and

3. Award such other and further relief as the Court deems just and proper.

This the 10th day of December, 2025.

Respectfully submitted,

**VICKSBURG WARREN SCHOOL DISTRICT**

By: /s/ KaShonda L. Day
*Attorney*

OF COUNSEL:

KaShonda L. Day, Esq. (MS Bar No. 103144)
Mary Clark Joyner, Esq. (MS Bar No. 105954)
ADAMS & REESE, LLP
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KaShonda L. Day Telephone: 601-292-0785
Mary Clark Joyner Telephone: 601-292-0789
Facsimile: 601-355-9708
kashonda.day@arlaw.com
maryclark.joyner@arlaw.com

**CERTIFICATE OF SERVICE**

I, KaShonda L. Day, Attorney for Defendant, do hereby certify that I have this day filed, with Plaintiff's counsel of record a true and correct copy of the above and foregoing document, which will be distributed via the electronic court filing system.

Dated: December 10, 2025

*/s/ KaShonda L. Day*
KaShonda L. Day, Esq.

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

**MELISSA BROOME** **PLAINTIFF**

**VS.** **CIVIL NO.: 3:25-CV-234-DPJ-ASH**

**VICKSBURG WARREN SCHOOL DISTRICT** **DEFENDANT**

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**MEMORANDUM OF LAW IN SUPPORT OF RULE 12(c) MOTION FOR JUDGMENT ON THE PLEADINGS FOR FAILURE TO STATE A CLAIM**

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Defendant Vicksburg Warren School District ("VWSD" or "the District") respectfully submits this memorandum of law in support of its motion for judgment on the pleadings under Federal Rule of Civil Procedure 12(c). Although the District denies Plaintiff's factual allegations and any liability, for purposes of this motion only it assumes the truth of Plaintiff's well-pleaded factual allegations in the Complaint, but not her legal conclusions.

Rule 12(c), like Rule 12(b)(6), tests the legal sufficiency of the *complaint as pleaded*. The Court must decide, based solely on the pleadings, whether Plaintiff has alleged facts that, if true, state a plausible claim for relief. Under controlling Supreme Court and Fifth Circuit precedent, she has not. Her Americans with Disabilities Act of 1990 (ADA) Title II and Rehabilitation Act § 504 retaliation theories are not cognizable on these facts; her First Amendment claim is foreclosed by *Garcetti* and *Connick*; her Fourteenth Amendment procedural due process claim fails for lack of a protected property or liberty interest and for lack of municipal liability; and several categories of relief she seeks are legally unavailable. In addition, the defects are legal and structural; amendment would be futile. *Garcetti v. Ceballos*, 547 U.S. 410 (2006); *Connick v. Myers*, 461 U.S. 138 (1983).

Accordingly, the Complaint should be dismissed with prejudice, and judgment on the pleadings entered in the District's favor.

**I. RULE 12(c) STANDARD**

A motion for judgment on the pleadings under Rule 12(c) is evaluated under the same standard as a Rule 12(b)(6) motion to dismiss for failure to state a claim. *Gentilello v. Rege*, 627 F.3d 540, 543-44 (5th Cir. 2010). The Court must accept as true all well-pleaded factual allegations and determine whether the complaint states a plausible claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555-57 (2007). A claim is plausible only if the pleaded facts permit the Court to draw the reasonable inference that the defendant is liable for the misconduct alleged. *Iqbal*, 556 U.S. at 678. Legal conclusions, formulaic recitations of the elements, threadbare labels (such as "retaliatory," "deliberately indifferent," or "policy"), and allegations made solely "upon information and belief" without supporting facts are not entitled to a presumption of truth. *Id.*; *Twombly*, 550 U.S. at 555.

In deciding a Rule 12(c) motion, the Court may consider the complaint, the answer, and documents attached to those pleadings or incorporated by reference, as well as matters of which it may take judicial notice, without converting the motion into one for summary judgment. *Great Plains Tr. Co. v. Morgan Stanley Dean Witter & Co.*, 313 F.3d 305, 312-15 (5th Cir. 2002).

**II. FACTUAL ALLEGATIONS IN THE COMPLAINT**

For this motion only, the District summarizes the allegations in the Complaint without admitting their truth for any other purpose.

Plaintiff is a special education teacher employed by the District under an annual contract. Compl. ¶¶ 1-3, 5, 23. Her duties include providing special education services and participating in eligibility and IEP meetings for students with disabilities. Compl. ¶¶ 5-8.

On January 30, 2025, Plaintiff attended an IEP/MET meeting for a student with paralysis. Compl. ¶¶ 5-8. She alleges that, based on the student's academic performance, she expressed the view that the student did not require "specially designed instruction" and thus was not IDEA eligible, and that the student could instead be served under § 504 with accommodations and related services in the general education setting. Compl. ¶¶ 7-10. She also raised concerns that identifying additional students under IDEA would "swamp" special education staff with more IEPs. Compl. ¶ 9. Other team members favored IDEA eligibility. Compl. ¶ 11. Plaintiff affirmatively alleges that the meeting was "pleasant, appropriate, and informed," and that she ultimately "assented to the draft IEP so the student would receive the services." Compl. ¶ 11.

After the meeting, Plaintiff alleges that a District "specialist" reprimanded her for expressing her views, directed her not to disagree in front of parents during meetings, and required her to attend additional professional development. Compl. ¶ 14. The next day, Plaintiff met with Superintendent Dr. Toriano Holloway, who allegedly criticized her conduct at the IEP meeting, accused her of telling the parent that the child did not need special education, and informed her that she would no longer participate in IEP meetings. Compl. ¶¶ 15, 19. Plaintiff alleges she attempted to explain her views, but that Dr. Holloway cut her off. Compl. ¶ 15.

On February 11, 2025, Plaintiff received a letter from Dr. Holloway stating that she was being suspended for two days without pay because she allegedly "got up and walked out" of their earlier meeting. Compl. ¶ 16. The letter notified her of the charges, advised her that she was entitled to a public hearing if she requested one, and referenced District procedures. Compl. ¶¶ 16-17. Plaintiff asserts that the letter mischaracterized her conduct, that she had "professionally excused herself" rather than stormed out, and that she submitted a written appeal disputing the allegations and requesting a public hearing. Compl. ¶¶ 18-21, 34. She alleges that the District did not respond

to her appeal or provide a hearing. Compl. ¶¶ 20-21, 34. For purposes of this Rule 12(c) motion only, the District assumes that the two-day unpaid suspension alleged in the Complaint occurred exactly as Plaintiff alleges.

Plaintiff further alleges that, "[a]s of the filing of this Complaint," she had not received a contract renewal for the next school year, "even though every other teacher she knows has," and that, "[u]pon information and belief," Dr. Holloway "has decided not to renew her contract" in retaliation for her alleged advocacy. Compl. ¶¶ 23-24. She does not allege that the Board had voted on her contract or that any particular statutory nonrenewal procedure had been invoked as of the time she filed suit.

On these allegations, Plaintiff asserts (1) ADA Title II and Rehabilitation Act § 504 retaliation, Compl. ¶¶ 25-29; (2) First Amendment retaliation under 42 U.S.C. § 1983, Compl. ¶¶ 30-33; and (3) Fourteenth Amendment procedural due process under § 1983, Compl. ¶¶ 33-34. She seeks declaratory and injunctive relief, reinstatement of duties, "economic and non-economic damages," damages for "pain and suffering," "humiliation," and emotional harm, and attorney's fees and costs. Compl. ¶¶ 29, 33-34 & Prayer for Relief at 8-9**.**

## III. THE ADA TITLE II AND REHABILITATION ACT RETALIATION CLAIMS FAIL AS A MATTER OF LAW

### A. Title II of the ADA Does Not Provide a Cause of Action for Employment-Based Retaliation

Plaintiff invokes Title II of the ADA as the source of her retaliation claim. Compl. ¶¶ 3, 25-29. Title II provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity." 42 U.S.C. § 12132. It is not an employment statute. The Fifth Circuit

has squarely held that, "unlike Title I of the ADA, Title II does not create a cause of action for employment discrimination." *Taylor v. City of Shreveport*, 798 F.3d 276, 282 (5th Cir. 2015). In *Taylor*, the court reasoned that employment discrimination by a public employer is covered by Title I, which has its own enforcement and administrative exhaustion scheme; allowing public employees to sue under Title II would improperly bypass Title I's restrictions. *Id.* The Fifth Circuit reaffirmed that rule in *Moss v. Harris Cnty. Constable Precinct One*, holding that a county employee could not bring ADA employment claims under Title II and emphasizing that Title I is the exclusive vehicle for such claims. 851 F.3d 413, 418-21 (5th Cir. 2017). Likewise, in *Gore v. Cedar Hill Indep. Sch. Dist.*, the Northern District of Texas dismissed a school district employee's employment discrimination claim brought under Title II, holding that Title II does not provide a remedy for employment disputes. 2016 WL 4597513, at *8-9 (N.D. Tex. July 26, 2016). The Fifth Circuit has repeatedly held that public employees may not bypass Title I's exclusive administrative scheme by repackaging employment claims under Title II.

Plaintiff's Title II claim is quintessentially an employment claim. Every adverse act she alleges: reprimand, reassignment of duties, required training, removal from IEP duties, the alleged two-day suspension, and the asserted nonrenewal of her teaching contract, arises solely out of her employment relationship with the District. Compl. ¶¶ 14-18, 19, 22-24, 28-29. She does not allege that she, as a member of the public, was denied access to any "service, program, or activity" of VWSD within the meaning of § 12132; nor does she plead that she is a qualified "individual with a disability." She also does not invoke Title I or its procedural requirements, including administrative exhaustion through the EEOC as required by 42 U.S.C. § 12117(a). Her attempt to repackage an employment retaliation theory as a Title II claim is precisely what *Taylor* and *Moss*, rejected. Under those decisions, Title II is unavailable as a vehicle for Plaintiff's employment

retaliation theory. Because Title II does not authorize employment-based claims against a public employer and Plaintiff has not pleaded any Title I claim or EEOC exhaustion, her ADA Title II retaliation claim fails as a matter of law and should be dismissed with prejudice. Plaintiff's reliance on generic 'advocacy' does not rescue her claim. The Complaint cites an out-of-circuit case for the notion that special education teachers may sue for retaliation when they "attempt[] to protect the rights of disabled students." See Compl. ¶ 29 (*citing Barker v. Riverside Cnty. Office of Educ.*). But *Barker* is a Ninth Circuit decision and, in any event, is incompatible with Fifth Circuit authority foreclosing public employees from using Title II to litigate employment disputes. *Taylor* and *Moss* make clear that Title I is the exclusive avenue for employment claims, with its exhaustion prerequisites, a path Plaintiff did not even plead. That is dispositive here.

**B. Plaintiff has not alleged "protected activity" cognizable under ADA/§ 504 retaliation standards.**

Even if Title II could theoretically support an employment retaliation theory (it cannot), Plaintiff still fails to allege an essential element of retaliation under the ADA and § 504: protected activity. To state a retaliation claim, a plaintiff must plausibly allege that (1) she engaged in activity protected by the statute, (2) she suffered a materially adverse action, and (3) a causal connection exists between the protected activity and the adverse action. *Feist v. La. Dep't of Justice*, 730 F.3d 450, 454-55 (5th Cir. 2013). The ADA's retaliation provision protects individuals who "opposed any act or practice made unlawful by this chapter" or who "made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing" under the ADA. 42 U.S.C. § 12203(a). Section 504 retaliation claims follow the same framework. *January v. Huntsville*, 74 F.4th 646, 652-53 (5th Cir. 2023).

Plaintiff does not allege that she opposed any act or practice made unlawful by the ADA or § 504, nor that she filed or assisted in any ADA or § 504 complaint or proceeding. Instead, she alleges that in a single IEP/MET meeting she expressed the view, as the student's special education teacher, that the student did not require "specially designed instruction" under IDEA and instead should be served under § 504 with accommodations, and that she raised concerns about special education workload. Compl. ¶¶ 7-11. She describes the meeting as "pleasant, appropriate, and informed," and states that she ultimately "assented to the draft IEP so the student would receive the services." Compl. ¶ 11. She does not allege that she told anyone the District was violating the ADA or § 504, discriminating against the student by reason of disability, or withholding required accommodations. These allegations describe internal professional judgment, not opposition to unlawful discrimination. Generalized advocacy within an IEP meeting about eligibility, without opposing unlawful disability discrimination or participating in any ADA/§504-proceeding, is not protected activity.

Substantively, recommending § 504 eligibility rather than IDEA eligibility is a procedural eligibility judgment, not per se advocacy against discrimination or for greater rights. As Plaintiff explains herself, the IDEA provides specially designed instruction and related services through an IEP for children who need special education, while § 504 is implemented primarily through accommodations that ensure access to existing programs for students who do not require special education. Compl. ¶ 7; see also 20 U.S.C. §§ 1401(3)(A), (9), (29), 1414(d); 29 U.S.C. § 794; 34 C.F.R. pt. 104. By recommending § 504 rather than IDEA, Plaintiff was advocating a less intensive special education legal framework, implicitly suggesting that the student did not need IDEA's heightened legal protections.

Courts have recognized that such intra-professional disagreements over educational methods, placement, or eligibility do not automatically constitute protected activity. In *Frakes v. Peoria Sch. Dist. No. 150*, the Seventh Circuit rejected a special education teacher's claim that she engaged in protected activity by advocating certain teaching methods and opposing others, holding that a teacher's preference for certain strategies, even if she believes they benefit disabled students, is not protected activity under § 504 absent opposition to discriminatory practices or legal violations. 872 F.3d 545, 551 (7th Cir. 2017). The same reasoning applies here: Plaintiff's allegations describe routine professional judgments and workload concerns within her job duties, not protected opposition to disability discrimination. Her ADA/§ 504 retaliation claims therefore fail on the threshold element of protected activity.

**C. Any retaliation theory also fails for lack of materially adverse action and but-for causation.**

Even if Plaintiff could identify protected activity (she cannot), she must still allege a materially adverse action and a causal connection sufficient to satisfy the but-for standard. *See Univ. of Tex. Sw. Med. Ctr. v. Nassar*, 570 U.S. 338, 360 (2013).

Under *Burlington N. & Santa Fe Ry. Co. v. White*, a retaliation plaintiff must show an action that "well might have dissuaded a reasonable worker from making or supporting a charge of discrimination." 548 U.S. 53, 68 (2006). The Fifth Circuit applies Burlington's standard to ADA and related retaliation claims. *Stewart v. Miss. Transp. Comm'n*, 586 F.3d 321, 331-32 (5th Cir. 2009). Not every minor disturbance or change in duties is materially adverse.

Plaintiff alleges a reprimand, a requirement to attend professional development, removal from IEP meeting duties, a two-day suspension, and alleged nonrenewal of her contract. Compl. ¶¶ 14-24, 28-29. Written or oral reprimands and mandatory training, without any change in pay,

title, or core responsibilities, generally do not rise to the level of materially adverse actions. *See Thibodeaux-Woody v. Houston Cmty. Coll.*, 593 F. App'x 280, 286 (5th Cir. 2014); *DeHart v. Baker Hughes Oilfield Operations, Inc.*, 214 F. App'x 437, 442 (5th Cir. 2007); *Brown v. CSX Transp., Inc.*, 155 F. Supp. 3d 265, 394-406 (W.D.N.Y. 2016). Nor does a reassignment amount to a materially adverse action absent a tangible negative impact on position, pay, or status. *Stewart*, 586 F.3d at 331-32.

As to the two-day unpaid suspension, even assuming arguendo that it is materially adverse under *Burlington*, Plaintiff still does not plausibly allege but-for causation. She alleges only (1) temporal proximity to the IEP/MET meeting and (2) her belief that administrators were unhappy with her comments there, plus the District's stated rationale that she "got up and walked out refusing to finish the conference," which she disputes and characterizes as "professionally excus[ing] herself." Compl. ¶¶ 16, 18, 22-24, 28-29. The Fifth Circuit has made clear that temporal proximity and subjective belief, without more, are insufficient to establish causation. *Strong v. Univ. Healthcare Sys., L.L.C.*, 482 F.3d 802, 808-09 (5th Cir. 2007). On her own allegations, the suspension is at most a response to an internal workplace dispute, not to any ADA or § 504-protected opposition or participation.

Plaintiff's nonrenewal theory is even weaker. At the time she filed suit, she alleged only that she had not yet received a renewal contract and that, "upon information and belief," the Superintendent had decided not to renew her. Compl. ¶¶ 23-24. She does not allege that a nonrenewal decision was actually made, that statutory nonrenewal procedures ran, or that the Board took any action. This speculative allegation, unsupported by facts about renewal timelines, comparators, or decisionmaker statements, cannot satisfy *Iqbal's* plausibility standard or Nassar's but-for requirement. *See Iqbal*, 556 U.S. at 678-79; *Nassar*, 570 U.S. at 360.

**D. Plaintiff has not alleged intentional discrimination or deliberate indifference required for damages under Title II/§ 504.**

Compensatory damages under § 504 and ADA Title II are available only upon a showing of intentional discrimination. The Fifth Circuit has held that a plaintiff must show intentional discrimination, often framed as "deliberate indifference," to recover damages under these statutes. *Delano-Pyle v. Victoria Cnty.*, 302 F.3d 567, 574-75 (5th Cir. 2002); *Cadena v. El Paso Cnty.*, 946 F.3d 717, 724-25 (5th Cir. 2020). Deliberate indifference requires that an official know of and disregard an excessive risk to federally protected rights; mere negligence or disagreement over procedures is insufficient.

Plaintiff alleges that administrators reprimanded her, changed her assignment with respect to IEP meetings, and imposed a short suspension because of dissatisfaction with her IEP meeting conduct. Compl. ¶¶ 14-21, 22, 28-29. She does not allege that anyone knew they were violating ADA or § 504 rights and consciously chose to do so. Indeed, the suspension letter she describes informed her of the charges and an appeal/hearing option, Compl. ¶¶ 16-17, 20-21, suggesting an effort to provide process, not a deliberate attempt to trample federal rights. Plaintiff's assertions that the District acted "intentionally" or with "deliberate indifference," Compl. ¶¶ 28, 33, are conclusory labels not supported by factual allegations and therefore not entitled to deference under *Twombly* and *Iqbal*.

**E. Plaintiff is not a proper party to pursue IDEA/FAPE claims, and any such aspects of the Complaint fail; in any event, no IDEA exhaustion is alleged.**

Portions of the Complaint criticize the IEP process and eligibility decisions in the January 30 meeting. See Compl. ¶¶ 6-13, 22 (allegations of "predetermination" and improper IEP practices). To the extent these allegations are construed as attempting to enforce rights under the

IDEA or to alter student eligibility determinations, they fail because Plaintiff is not the proper party to bring such claims and has not alleged IDEA exhaustion.

The IDEA establishes a detailed administrative process for resolving disputes about a child's identification, evaluation, placement, or provision of a free appropriate public education (FAPE). Only a "parent or a public agency may file a due process complaint" to request an IDEA hearing. 34 C.F.R. § 300.507(a)(1). A teacher in her individual capacity is neither a "parent" nor the "public agency." She thus has no statutory right to file an IDEA due process complaint on her own behalf to seek changes in a student's IEP or to vindicate the student's FAPE rights.

In *Fry v. Napoleon Cmty. Schs.*, the Supreme Court held that IDEA's exhaustion requirement, 20 U.S.C. § 1415(l), applies when the gravamen of a suit is the denial of a FAPE and the plaintiff seeks relief "also available" under IDEA's procedures. 580 U.S. 154, 165-73 (2017). If a non-IDEA claim seeks relief for educational injuries that IDEA is designed to remedy, exhaustion is required. More recently, in *Perez v. Sturgis Pub. Schs.*, the Court clarified that exhaustion is not required when a plaintiff seeks only damages unavailable under IDEA, but reaffirmed that exhaustion is necessary when the relief sought is of the type the IDEA can provide. 598 U.S. 142, 148-55 (2023).

Here, Plaintiff's claims are not brought on behalf of the student; they are brought in her capacity as an employee seeking employment-related remedies: reinstatement of duties, damages for lost pay, and similar relief. Compl. ¶¶ 29, 33-34 & Prayer at 8-9. The IDEA does not provide such remedies to teachers. Thus, as to her own employment claims, she is not a person "seeking relief that is also available under IDEA," and § 1415(l) exhaustion is not triggered for those claims.

But to the extent Plaintiff's allegations or requested injunctive relief could be construed as attempting to obtain educational relief for the student (e.g., changes to IEP practices or eligibility

decisions, or training that would alter FAPE determinations), she is not a proper IDEA plaintiff and has no cause of action to pursue those issues. Those aspects of the Complaint should therefore be dismissed for lack of statutory standing and failure to state a claim.

In any event, even if the Court were to treat some portion of the Complaint as raising a FAPE-related challenge within the meaning of *Fry*, because it seeks injunctive relief aimed at IEP practices and training, Plaintiff has not alleged compliance with IDEA's administrative process. There is no allegation that any IDEA due process complaint was filed by a proper party, that a due process hearing occurred, or that state level review was exhausted. See 20 U.S.C. § 1415(f)-(g). Under *Fry* and *Perez*, any IDEA-based or FAPE-oriented aspect of the Complaint must therefore be dismissed, or at minimum stayed, for failure to exhaust IDEA administrative remedies.

**F. Plaintiff's § 504 retaliation claim fails for the same reasons as her ADA claim.**

Section 504 "adopts the rights, remedies, and procedures" applicable to ADA Title I claims. 29 U.S.C. § 794(d). The Fifth Circuit has held that the same substantive standards apply to ADA and § 504 retaliation claims. *Feist*, 730 F.3d at 454-55. Accordingly, a § 504 retaliation claim requires protected activity, a materially adverse action, and but-for causation, and compensatory damages require a showing of intentional discrimination or deliberate indifference.

Because Plaintiff's ADA-based retaliation theory fails for lack of protected activity, lack of a materially adverse action, lack of but-for causation, and lack of intentional discrimination, any parallel § 504 retaliation theory necessarily fails as well.

**IV. PLAINTIFF'S FIRST AMENDMENT RETALIATION CLAIM FAILS, AND SHE HAS NOT PLEADED *MONELL* LIABILITY**

Plaintiff asserts a First Amendment retaliation claim under 42 U.S.C. § 1983. Compl. ¶¶ 30-33. To state such a claim, she must allege that (1) she suffered an adverse employment action;

(2) she spoke as a citizen; (3) on a matter of public concern; (4) her interest in the speech outweighed the employer's interest in efficiency; and (5) the speech was a substantial or motivating factor in the adverse action. *Beattie v. Madison Cnty. Sch. Dist.*, 254 F.3d 595, 601-02 (5th Cir. 2001) (citing *Harris v. Victoria Indep. Sch. Dist.*, 168 F.3d 216, 220 (5th Cir. 1999)); *Garcetti*, 547 U.S. at 418-22. She must also satisfy the requirements for municipal liability under *Monell v. Department of Social Services*, 436 U.S. 658 (1978). Plaintiff's allegations fail on each element.

**A. Plaintiff's IEP meeting speech was made pursuant to her official duties and did not address a matter of public concern.**

In *Garcetti*, the Supreme Court held that when public employees make statements "pursuant to their official duties," they are not speaking as citizens for First Amendment purposes, and "the Constitution does not insulate their communications from employer discipline." 547 U.S. at 421-22. The Fifth Circuit has repeatedly applied *Garcetti* to school employees who speak as part of their professional responsibilities. See, e.g., *Williams v. Dallas Indep. Sch. Dist*., 480 F.3d 689, 692-95 (5th Cir. 2007); *Davis v. McKinney*, 518 F.3d 304, 312-15 (5th Cir. 2008).

Plaintiff's own allegations show that her IEP meeting statements were part of her job, not citizen speech. She alleges that she is a special education teacher who instructs students with IEPs and § 504 plans, and that "in her role as special education teacher" she participated in the January 30, 2025 IEP/MET meeting for a student with paralysis. Compl. ¶¶ 5-6. She further alleges that special education teachers are required by law to attend IEP meetings and that the Team was determining eligibility under IDEA and § 504. Compl. ¶ 7. In that meeting, she opined that § 504, not IDEA, was the "appropriate eligibility fit," discussed whether the student needed "specially designed instruction," and expressed concerns that expanding IDEA eligibility would "swamp" the District with IEPs. Compl. ¶¶ 8-10. She concedes that other team members disagreed, that the

discussion remained "pleasant, appropriate, and informed," and that she ultimately assented to the draft IEP. Compl. ¶ 11.

By Plaintiff's own account, her comments about eligibility, the student's needs, and the effect on special education workload were made in an internal IEP meeting, in her official capacity as the student's special education teacher and required IEP team member. Compl. ¶¶ 5-11. Those statements are "part-and-parcel" of the professional duties she describes, not citizen commentary directed to the public. See *Williams*, 480 F.3d at 693-95; *Davis*, 518 F.3d at 312-15. Under *Garcetti*, such speech is not protected citizen speech. 547 U.S. at 421-22.

Even if Plaintiff could satisfy the *Garcetti* "citizen speech" requirement, her allegations do not show that she spoke on a matter of public concern. Under *Connick*, whether speech addresses a matter of public concern depends on "the content, form, and context of a given statement, as revealed by the whole record," and turns on whether it relates to political, social, or community concerns, as opposed to internal personnel or workplace grievances. 461 U.S. 138, 146-49 (1983). The Fifth Circuit applies *Connick* in school employee cases to distinguish speech on public issues from internal policy disputes. *See Beattie*, 254 F.3d at 601-02; *Williams*, 480 F.3d at 694; *Davis*, 518 F.3d at 316-18.

Here, Plaintiff alleges that she spoke at a single IEP meeting about one student's eligibility and the downstream effect of eligibility decisions on the District's caseload and funding. Compl. ¶¶ 8-11. She does not allege that she went to the press, outside agencies, other parents, or any public forum, or that she sought to expose corruption, discrimination, or illegality. To the contrary, she describes the meeting as "pleasant, appropriate, and informed," notes that the family left in "friendly fashion," and acknowledges that she assented to the IEP so the student would receive services. Compl. ¶ 11. Those allegations describe an internal policy and workload disagreement

raised within the chain of command at a single IEP meeting, not speech on a matter of public concern under *Connick*, 461 U.S. at 146-49.

Because Plaintiff has not plausibly alleged that she spoke as a citizen or that her IEP meeting speech addressed a matter of public concern, her First Amendment retaliation claim fails at the threshold, and the Court need not proceed to *Pickering* balancing (weighing the employee's speech interest against the employer's efficiency interest). *See Garcetti*, 547 U.S. at 418-22; *Connick*, 461 U.S. at 146-48; *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968).

**B. In any event, *Pickering* balancing favors the District.**

Even assuming arguendo that Plaintiff engaged in protected citizen speech on a matter of public concern, her claim still fails at the second step because the *Pickering* balance favors the District. Under *Pickering*, courts must weigh "the interests of the [employee], as a citizen, in commenting upon matters of public concern and the interest of the State, as an employer, in promoting the efficiency of the public services it performs." 391 U.S. at 568; *see Connick*, 461 U.S. at 150-52.

School districts have strong interests in conducting IEP meetings in an orderly, coherent manner; presenting understandable and consistent information to parents; ensuring compliance with IDEA and § 504 procedures; and maintaining effective working relationships among administrators, teachers, and families. Plaintiff alleges that administrators believed her conduct at the IEP meeting "undermined the productive atmosphere," that IEP teams were expected to avoid "conflicting opinions" and "present a united front," and that she was reprimanded, assigned training, removed from future IEP meetings, and suspended following a contentious follow-up conference. Compl. ¶¶ 12-16, 18-19. Even taking those allegations as true, they show the District acting to preserve what it viewed as orderly IEP processes and internal cohesion, the very interests

*Pickering* and *Connick* recognize. *See Pickering*, 391 U.S. at 568; *Connick*, 461 U.S. at 150-52; *Davis*, 518 F.3d at 316-18.

By contrast, Plaintiff's interest in voicing a particular eligibility preference and workload concern during one internal IEP meeting is modest. She does not allege that she was prevented from complying with federal law, reporting violations to outside authorities, or speaking in public fora. On the facts pleaded, any *Pickering* balance would favor the District.

**C. Plaintiff has not plausibly alleged a materially adverse action or causation.**

Plaintiff must also plausibly allege that she suffered an adverse employment action and that her protected speech was a substantial or motivating factor in that action. *Beattie*, 254 F.3d at 601-02. In the public employee First Amendment context, adverse employment actions are generally limited to discharges, demotions, refusals to hire, refusals to promote, and comparable decisions that significantly alter job status; minor criticisms and trivial changes in work assignments ordinarily do not qualify. *Benningfield v. City of Houston*, 157 F.3d 369, 376-77 (5th Cir. 1998).

Plaintiff alleges that, after the IEP meeting, an instructional specialist reprimanded her, instructed her not to disagree openly in team meetings, and required her to attend professional development; that the Superintendent reprimanded her the next day, removed her from future IEP meetings, and later suspended her for two days without pay; and that she has not received a renewal contract and believes, "upon information and belief," that the Superintendent has decided not to renew her. Compl. ¶¶ 14-16, 18, 23-24, 28.

Reprimands, training directives, and removal from particular meetings, without more, are not the sort of significant changes in job status that typically qualify as adverse employment actions in First Amendment cases. *See Benningfield*, 157 F.3d at 376-77. The two-day suspension is more serious, but Plaintiff's own allegations tie it to her conduct in the follow-up meeting with the

Superintendent: the suspension letter asserts that she "got up and walked out refusing to finish the conference," Compl. ¶ 16, while she characterizes the same episode as "professionally excus[ing] herself" to escape his "tirade." Compl. ¶ 18. Beyond this timing and her belief that administrators were displeased with her IEP comments, she pleads no non-conclusory facts suggesting that the suspension was imposed in retaliation for citizen speech on a matter of public concern, as opposed to an internal dispute over workplace behavior. *See Garcetti*, 547 U.S. at 421-22; *Strong*, 482 F.3d at 808-09.

Her nonrenewal theory is weaker still. She alleges only that she had not "received a contract renewal for next year even though every other teacher she knows has," and that, "upon information and belief," the Superintendent "has decided not to renew her contract." Compl. ¶¶ 23-24. She does not allege that the Board has actually voted not to renew, that statutory nonrenewal procedures have run, or that she has been notified of a nonrenewal decision. Nor does she allege specific facts about renewal timelines, similarly situated comparators, or retaliatory statements by the Superintendent or Board members. These are speculative allegations about a possible future employment decision, not well-pleaded facts showing a completed, materially adverse action.

More fundamentally, Plaintiff has not plausibly alleged causation. She asserts in conclusory terms that her speech was "the substantial or motivating cause of the adverse employment actions." Compl. ¶ 32. The concrete facts she pleads are the temporal sequence between the January 30 IEP meeting, the January 31 reprimand, and the February 11 suspension, plus her belief that the District was unhappy with her advocacy. Compl. ¶¶ 12, 14-16, 18, 22-24, 30, 32-33. But, as previously argued above, temporal proximity "standing alone" is insufficient to prove but-for causation in retaliation cases. *Strong*, 482 F.3d 802 at 808-09. Plaintiff alleges no pattern of antagonism, no departure from normal procedures, no shifting explanations, and no retaliatory remarks by the

alleged decisionmakers. Her causation allegations are therefore conclusory and do not meet the plausibility standard.

**D. Plaintiff has not alleged any municipal policy, custom, or final policymaker action as required under *Monell*.**

Even if Plaintiff had adequately alleged a First Amendment violation (she has not), her § 1983 claim against the District fails for lack of municipal liability. Local governmental entities are not vicariously liable under § 1983 for their employees' actions; they may be liable only when execution of an official policy or custom is the "moving force" behind a constitutional violation. *Monell*, 436 U.S. at 690-95. The Fifth Circuit requires a plaintiff to identify "(1) a policymaker; (2) an official policy; and (3) a violation of constitutional rights whose 'moving force' is the policy or custom." *Piotrowski v. City of Houston*, 237 F.3d 567, 578 (5th Cir. 2001).

Plaintiff does not identify any District policy, practice, or custom, formal or informal, of retaliating against teachers for their IEP meeting statements. Instead, she alleges a series of actions directed at her by an instructional specialist and the Superintendent: a reprimand, a training assignment, removal from IEP meetings, a two-day suspension, and an alleged nonrenewal. Compl. ¶¶ 14-16, 18-24, 28, 30-33. Isolated disciplinary decisions affecting one employee, even if wrongful, do not constitute an official policy or a widespread practice under *Monell*. *See Piotrowski*, 237 F.3d at 578-82.

Nor does Plaintiff plausibly allege that a final policymaker for the District was responsible for the alleged retaliation. Under Mississippi law, local school boards, not superintendents, are the final policymakers with respect to teacher employment matters such as suspensions and nonrenewals governed by Miss. Code Ann. §§ 37-9-59, 37-9-101 to -113. Plaintiff does not allege that the Board adopted any policy or custom of retaliating against special education teachers, that

it directed or ratified the actions she challenges, or that it delegated final policymaking authority on retaliation matters to the Superintendent. *See City of St. Louis v. Praprotnik*, 485 U.S. 112, 123-28 (1988) (plurality opinion). Her § 1983 allegations consist of generalized statements that "Vicksburg Warren School District" retaliated against her and acted with deliberate indifference. Compl. ¶¶ 30–33. Such conclusory assertions are insufficient to plead municipal liability under *Monell* and *Piotrowski*.

For all these independent reasons: lack of protected citizen speech, lack of public concern speech, failure to plead a materially adverse action and causation, and failure to allege any municipal policy or final policymaker involvement, Plaintiff's First Amendment retaliation claim should be dismissed.

**V. PLAINTIFF'S FOURTEENTH AMENDMENT PROCEDURAL DUE PROCESS CLAIM FAILS**

Plaintiff's procedural due process claim under § 1983 (Compl. ¶¶ 33-34) rests on two alleged deprivations: (1) a two-day suspension without a public hearing under Miss. Code Ann. § 37-9-59, and (2) the alleged nonrenewal of her annual contract. To state a due process claim, she must allege a constitutionally protected property or liberty interest and a deprivation of that interest without constitutionally adequate process. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 538 (1985).

**A. Plaintiff has no protected property interest in renewal of her one-year teaching contract.**

Property interests are created by "existing rules or understandings that stem from an independent source such as state law." *Bd. of Regents v. Roth*, 408 U.S. 564, 577 (1972). A public employee has a property interest in continued employment only if state law, contract, or tenure

rules create a "claim of entitlement" to continued employment, rather than a unilateral expectation. *Id*.; *Bishop v. Wood*, 426 U.S. 341, 344-47 (1976).

Plaintiff alleges that she works under a one-year teaching contract and that, as of filing, she had not received a renewal contract for the upcoming school year and believed, "upon information and belief," that the Superintendent had decided not to renew her. Compl. ¶¶ 23-24. She does not allege that she is tenured, that her contract is for an indefinite term, that any statute or policy requires "cause" for nonrenewal, or that the District guaranteed renewal absent specified grounds. Nor does she allege that the statutory deadline for written notice of nonrenewal passed without such notice being given. *See* Miss. Code Ann. § 37-9-105 (requiring written notice of nonrenewal by April 15, or within ten days after approval of the state education budget, whichever is later).

Mississippi law confirms that, absent tenure or automatic renewal, teachers employed under annual contracts do not have a property interest in renewal. Federal courts applying Mississippi law have long held that public school teachers "are without job tenure and school officials are not required to rehire teachers beyond [the] term provided by contract," so long as the decision is not otherwise unlawful. *Pickens v. Okolona Mun. Separate Sch. Dist.*, 380 F. Supp. 1036, 1038-39 (N.D. Miss. 1974). Likewise, "no teacher hired under any contract has a vested right to be rehired under any circumstances," even after years of prior employment. *Jennings v. Meridian Mun. Separate Sch. Dist.*, 337 F. Supp. 567, 572 (S.D. Miss. 1970). The Fifth Circuit has summarized this principle by holding that a public school teacher has a constitutionally protected property interest in continued employment only if she can demonstrate a reasonable expectation of continued employment. *Nunez v. Simms*, 341 F.3d 385, 387 (5th Cir. 2003). More recently, the court has held that even a tenure-track public employee in Mississippi does not, by virtue of that

status alone, have a property interest in continued employment for due process purposes. *Wigginton v. Jones*, 964 F.3d 329, 336-37 (5th Cir. 2020).

The Education Employment Procedures Law, Miss. Code Ann. §§ 37-9-101 to -113, imposes procedural and notice requirements for nonrenewal, but those procedures do not, standing alone, create a substantive right to renewal for non-tenured teachers. *See*, e.g., *Suddith v. Univ. of S. Miss.*, 977 So. 2d 1158, 1170-71 (Miss. Ct. App. 2007). One narrow exception is where the statute itself causes an automatic renewal: if a district fails to provide timely written notice of nonrenewal under § 37-9-105, the contract renews by operation of law, and the teacher then has a property interest in employment for the renewed term. *See McMullen v. Starkville Oktibbeha Consol. Sch. Dist.*, 200 F. Supp. 3d 649, 654-57 (N.D. Miss. 2016). But Plaintiff pleads no such facts here: she does not allege that the statutory deadline passed without notice, that her contract automatically renewed, or that she was under a renewed contract when she filed suit. Compl. ¶¶ 23-24.

At most, Plaintiff had a property interest in her current one-year contract through its stated expiration date; she had no constitutionally protected entitlement to a contract for the next year. *See Roth*, 408 U.S. at 577-78; *Pickens*, 380 F. Supp. at 1038–39; *Jennings*, 337 F. Supp. at 572; *Nunez*, 341 F.3d at 387. Accordingly, even if the District ultimately chose not to renew her contract, that nonrenewal did not deprive her of a protected property interest, and her nonrenewal allegations cannot support a procedural due process claim.

**B. The alleged two-day suspension does not support a federal due process claim.**

Plaintiff's second due process theory turns on an alleged violation of Miss. Code Ann. § 37-9-59 and related hearing provisions. She alleges that the District sent a letter suspending her for two days without pay, that the letter advised her of the charges and informed her of a right to a

public hearing, and that she submitted a written appeal requesting such a hearing, but that the District did not hold one. Compl. ¶¶ 16-21, 34. For purposes of this motion only, the District assumes the suspension occurred exactly as alleged.

The question, however, is not whether the District strictly complied with § 37-9-59, but whether Plaintiff's allegations show a violation of the federal Due Process Clause. The Supreme Court in *Loudermill* held that a public employee with a property interest in ongoing employment is entitled to "oral or written notice of the charges against him, an explanation of the employer's evidence, and an opportunity to present his side of the story" before termination. 470 U.S. at 545-46. The Constitution does not incorporate every procedure a state may choose to require by statute; a failure to follow state procedural requirements does not, without more, amount to a federal due process violation. *Parratt v. Taylor*, 451 U.S. 527, 543-44 (1981); *Hudson v. Palmer*, 468 U.S. 517, 533 (1984).

Here, Plaintiff's own allegations show that she was afforded at least the minimal process the Constitution requires for a short suspension. She met with Dr. Holloway, discussed her conduct, and attempted to give her side of the story before the suspension letter issued. Compl. ¶¶ 15, 18-19. She then received a written letter explaining that she was being suspended for allegedly getting up and walking out of the meeting, and informing her of her right to request a public hearing. Compl. ¶¶ 16-18. She submitted a written appeal letter disputing the allegations and formally requesting a hearing. Compl. ¶¶ 20-21, 34. These allegations demonstrate that she received notice of the charges and an opportunity to respond, both orally and in writing. The Constitution requires no more for a brief suspension. *See, e.g., Gilbert v. Homar*, 520 U.S. 924, 930-35 (1997) (due process is flexible and calls for such procedural protections as the particular situation

demands).This satisfies the core constitutional requirement of due process for a brief disciplinary suspension.

Plaintiff's complaint that she did not receive a public hearing under § 37-9-59 describes, at most, an alleged violation of state law procedural rights, for which state law remedies exist. It is not, on the facts alleged, a violation of the federal Due Process Clause.

**C. The due process claim, like the First Amendment claim, fails for lack of *Monell* municipal liability.**

Plaintiff's procedural due process claim is asserted against the District under § 1983. As with her First Amendment claim, she must plead municipal liability under *Monell* by identifying a policymaker, an official policy or custom, and a constitutional violation whose moving force was that policy or custom. *Monell*, 436 U.S. at 694-95; *Piotrowski*, 237 F.3d at 578.

Plaintiff does not allege that the District's Board adopted any policy or custom regarding denial of § 37-9-59 hearings. She alleges only that, in her individual case, she did not receive the hearing she believes she was owed. Compl. ¶¶ 16-21, 34. A single alleged procedural misstep in one employee's case does not establish a policy or custom. She also does not allege that the Board, as final policymaker, ratified any denial of a hearing or that the Board delegated final policymaking authority in these matters to the Superintendent.

Her references to "the District" acting "with deliberate indifference" are conclusory and do not satisfy *Monell*. Accordingly, the due process claim must be dismissed for lack of municipal liability as well.

## VI. REMEDIES AND STANDING

### A. Article III standing for prospective injunctive and declaratory relief is lacking.

Plaintiff seeks declaratory relief and broad injunctive relief mandating changes in District policies, practices, and training. Compl. at 8. To have standing to seek such prospective relief, a plaintiff must demonstrate a "real and immediate threat" of future injury, not merely past harm. *City of Los Angeles v. Lyons*, 461 U.S. 95, 101-06 (1983); *O'Shea v. Littleton*, 414 U.S. 488, 495-99 (1974). The Supreme Court has emphasized that allegations of possible future injury, based on a speculative chain of possibilities, do not satisfy Article III's "certainly impending" requirement. *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 409-14 (2013).

Plaintiff's alleged injuries consist of discrete past events: one IEP meeting, followed by reprimands, a change in duties, a two-day suspension, and alleged nonrenewal of an annual contract. Compl. ¶¶ 5-24. She does not allege that she is currently employed by the District or that she faces any realistic risk of being subjected to the same actions in the future. Nor does she allege a policy that will, with any degree of certainty, bring her into contact with the District in a way that recreates these events. Under *Lyons*, *O'Shea*, and *Clapper*, these past injuries do not give her standing to seek broad injunctive or declaratory relief. Those requests must be dismissed for lack of Article III standing.

### B. Plaintiff's claimed emotional distress and related non-economic compensatory damages are unavailable under § 504/Title II, and punitive damages are unavailable under § 1983 against a municipality.

Plaintiff seeks monetary damages for damage to reputation, pain and suffering, and humiliation, embarrassment, and emotional harm. Compl. at 8. These categories are best understood as compensatory damages, but they are largely non-economic and, in substance,

include emotional distress-type injuries. The Supreme Court held in *Cummings v. Premier Rehab Keller, P.L.L.C.* that emotional distress damages are not recoverable in private actions to enforce § 504. 142 S. Ct. 1562 (2022). Title II incorporates § 504's remedial scheme, so the same limitation applies to Plaintiff's Title II claim (which is an invalid claim as argued above). *See* 42 U.S.C. § 12133; *Barnes v. Gorman*, 536 U.S. 181, 185-90 (2002). Accordingly, to the extent Plaintiff seeks compensatory damages for emotional distress (including humiliation, embarrassment, pain and suffering, and emotional harm) under her ADA/§ 504 theories, those damages are not recoverable and should be dismissed with prejudice.

To the extent the Complaint could be read to seek punitive or exemplary damages, such damages are likewise unavailable under § 504 and Title II. And in any event, municipal entities are immune from punitive damages under § 1983. *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 271 (1981). Finally, to the extent the Complaint could be read to assert § 504 claims against individuals, such claims fail because § 504 authorizes suit only against the relevant federally funded program or activity, not individuals. *Lollar v. Baker*, 196 F.3d 603, 609-10 (5th Cir. 1999).

**VII. PLEADING DEFECTS AND FUTILITY OF AMENDMENT**

The Complaint is replete with labels and conclusions in place of factual allegations. Plaintiff repeatedly asserts that the District's actions were "retaliatory," "causally connected" to her advocacy, "intentional," and "deliberately indifferent," and that "the District" had policies and customs that violated her rights. Compl. ¶¶ 22, 28, 30-34. These are precisely the sort of threadbare assertions *Twombly* and *Iqbal* instruct courts to disregard. *Twombly*, 550 U.S. at 555-57; *Iqbal*, 556 U.S. at 678-79.

When the well pleaded facts are separated from the conclusions, what remains is: an internal disagreement about student eligibility in a single IEP meeting; internal reprimands and a

training requirement; a short suspension with notice and an appeal option; and a speculative allegation about possible nonrenewal of a one-year contract. Those facts do not plausibly state any claim under ADA Title II, § 504, the First Amendment, or the Fourteenth Amendment, nor do they plausibly allege any District policy or custom under *Monell*.

Amendment would be futile. The core defects are legal and structural: (1) under *Taylor* and *Moss*, Title II does not permit public employees to bring employment-based ADA claims; (2) under *Roth*, *Bishop*, and Mississippi law, Plaintiff has no property interest in the renewal of her one-year teaching contract; (3) under *Garcetti* and *Connick*, as applied in *Williams*, *Davis*, and *Beattie*, her IEP meeting speech is unprotected employee speech on internal matters; (4) *Barnes*, *Cummings*, and *City of Newport* bar the punitive (to the extent they are sought or the Complaint could be read as such) and emotional distress remedies she seeks; and (5) the facts as she pleads them do not support protected activity, materially adverse action, but-for causation, deliberate indifference, *Monell* liability, standing for injunctive relief, or any IDEA/FAPE cause of action. To "cure" these shortcomings would require fundamentally different facts, not more detailed pleading, and any such amendment would run afoul of Rule 11.

Because no amendment could transform these allegations into viable claims, dismissal should be with prejudice. Additionally, Rule 8 does not "unlock the doors of discovery for a plaintiff armed with nothing more than conclusions." *Iqbal*, 556 U.S. at 678-79.

**VIII. CONCLUSION**

For the reasons set forth above, even taking Plaintiff's allegations as true and viewing them in the light most favorable to her, the Complaint fails to state any claim upon which relief can be granted against Vicksburg Warren School District. Title II does not provide an employment retaliation claim for public employees; Plaintiff has not pled protected activity, materially adverse

action, but-for causation, or intentional discrimination under the ADA/§ 504; her First Amendment claim is barred by *Garcetti* and *Connick* and fails to allege adverse action, causation, or *Monell* liability; her Fourteenth Amendment due process claim fails for lack of any protected property or liberty interest and lack of *Monell* liability; she is not a proper plaintiff for IDEA/FAPE issues and, in any event, has not alleged IDEA exhaustion; she lacks standing for prospective injunctive or declaratory relief; and the emotional distress damages she seeks are unavailable as a matter of law. Because amendment would be futile, dismissal should be with prejudice.

Accordingly, Defendant Vicksburg Warren School District respectfully requests that the Court grant its Rule 12(c) Motion for Judgment on the Pleadings, dismiss the Complaint with prejudice in its entirety, and award such further relief as the Court deems just and proper.

This the 10th day of December, 2025.

Respectfully submitted,

**VICKSBURG WARREN SCHOOL DISTRICT**

By: /s/ KaShonda L. Day
*Attorney*

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**CERTIFICATE OF SERVICE**

I, KaShonda L. Day, Attorney for Defendant, do hereby certify that I have this day filed, with Plaintiff's counsel of record a true and correct copy of the above and foregoing document, which will be distributed via the electronic court filing system.

Dated: December 10, 2025

*/s/ KaShonda L. Day*
KaShonda L. Day, Esq.

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

**MELISSA BROOME**

**PLAINTIFF.**

**VS.** **NO. 3:25-cv-234-DPJ-ASH**

**JURY DEMANDED**

**VICKSBURG WARREN SCHOOL DISTRICT**

**DEFENDANT.**

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**PLAINTIFF'S RESPONSE IN OPPOSITION TO MOTION TO DISMISS**

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**COMES THE PLAINTIFF, MELISSA BROOME,** through counsel, submitting this Response in Opposition to Defendant's Motion to Dismiss under Fed. R. Civ. P. 12(c). (D.E. 14).

## I. INTRODUCTION

Plaintiff's counsel have rarely seen such a kitchen-sink Rule 12(c) motion, a rather obvious effort to create work in arguing for a dismissal. None of the arguments is well taken, legally or factually, for the reasons presented below.

## II. ADA AND SECTION 504

### A. Title II of the ADA, Not Title I, Applies to Advocacy for *Others*' Disabilities

Defendant argues that Broome must proceed under Title I of the ADA (employment discrimination), not Title II of the ADA or Section 504. However, it relies upon standard-issue employment law cases involving the Plaintiff's *own* disability: *Taylor v. City of Shreveport*, 798 F.3d 276, 283 (5th Cir. 2015); *Moss v. Harris Cty. Constable Precinct One*, 851 F.3d 413, 420 (5th Cir. 2017); and *Gore v. Cedar Hill Indep. Sch. Dist.*, 2016 U.S. Dist. LEXIS 119002, at *18 (N.D. Tex. July 26, 2016). (D.E. 14, Memo., pp. 5-6). None is like the present case.

In *Taylor*, police officers argued against certain medical inquiries arising from their *own* disabilities, an obvious Title I claim. That claim was dismissed while the Section 504 claim was preserved, as there is no exhaustion requirement under Section 504. *Taylor,* at 283.

In *Moss,* the plaintiff was on an extended leave for his *own* disability when his employment was terminated. *Moss,* at 417. Again, the claim is a standard Title I ADA claim. And in *Gore*, the plaintiff sought a reasonable accommodation for his *own* disability. *Gore,* at *18.

But here, Broome is not suing for her *own* disability. She is suing for having supported an individual *student's* disability, a student who is undisputedly covered under *Title II* of the ADA. Title II of the ADA, unlike Title I, incorporates the remedies provision of Title VI, not Title I or Title VII, and that does *not* require exhaustion. *Barnes v. Gorman*, 536 U.S. 181, 184-185 (2002). Title II of the ADA relies on Section 505 of the Rehabilitation Act. 42 U.S.C. § 12133 ("The remedies, procedures, and rights set forth in [Section 505] shall be the remedies, procedures, and rights this subchapter provides to **any person** alleging discrimination on the basis of disability in violation" of Title II.) (emphasis added). Section 505 in turn relies on Title VI of the Civil Rights Act of 1964. 29 U.S.C. § 794a(a)(2). And the Supreme Court holds that remedies for a violation of Title II of the ADA and Section 504 of the RA "are coextensive with the remedies available in a private cause of action brought under Title VI of the Civil Rights Act of 1964 . . . ." *Barnes v. Gorman*, 536 U.S. 181, 184-185 (2002).

Title II and Section 504's anti-retaliation provisions apply broadly to any "non-disabled persons who are retaliated against for attempting to protect the rights of the disabled." See *Wilbanks v. Ypsilanti Cmty. Schs*, 742 Fed. Appx. 84, 87 (6th Cir. 2018) (citing *Barker v. Riverside Cty. Off. Of Educ.,* 584 F.3d 821 (9th Cir. 2009)).

Defendant states that *Barker v. Riverside Cty. Off. Of Educ.,* 584 F.3d 821 (9th Cir. 2009) is a Ninth Circuit case which is not binding. That's true, of course, but *Barker's* textual *reasoning* is accurate. The antiretaliation provisions do apply to "any individuals," not just individuals with disabilities. And many other courts so hold:

> Nor must the plaintiff have a disability to bring a retaliation claim, as the antiretaliation provisions plainly bar discrimination against "*any* individual"—and not just against individuals with disabilities—for opposing unlawful acts or practices. 42 U.S.C. § 12203(a) (emphasis added); *see Wilbanks v. Ypsilanti Cmty. Schs.*, 742 F. App'x 84, 87 (6th Cir. 2018) ("The anti-retaliation provisions of the ADA and [Rehabilitation Act] grant standing [sic] to non-disabled persons who are retaliated against for attempting to protect the rights of the disabled."); *Barker v. Riverside Cnty. Office of Educ.*, 584 F.3d 821, 826-28 (9th Cir. 2009) (holding that a special education teacher who "engaged in activities opposing her school's special education policies that allegedly violated the ADA ... had standing [sic] to pursue her claim under [the ADA's retaliation] clause"); *Weber v. Cranston Sch. Comm.*, 212 F.3d 41, 48 (1st Cir. 2000) (holding that a mother stated a Rehabilitation Act retaliation claim where she alleged that the defendant school system retaliated against her for trying to enforce her disabled child's rights); *MacFarlan v. Bd. of Educ. Sch. Dist. 65*, 904 F. Supp. 2d 852, 854 (N.D. Ill. 2012) (holding that a teacher's claim seeking recovery under the Rehabilitation Act for actions taken against her for "oppos[ing] allegedly-disability-based discrimination against the students under her charge" was sufficient to state a claim).

*Molloy v. Acero Charter Sch., Inc*., 2019 U.S. Dist. LEXIS 176797, at *7-8 (N.D. Ill. Oct. 10, 2019). Just because Broome's *job* was adversely affected does not transport her claim into Title I:

> Accepting all allegations in the amended complaint as true, the practices Volpe allegedly opposed related to the provision of special education services to students by a public entity, see id. § 12131(1), not any employment discrimination she herself suffered on the basis of disability. See id. § 12112(a). Those practices were thus prohibited by Title II. *See, e.g. Weixel v. Bd. of Educ. of City of New York*, 287 F.3d 138, 146, 149 (2d Cir. 2002). The fact that the alleged retaliation occurred in a workplace at the hands of an employer does not bring it within Title I if the claim is not one for discrimination in employment on the basis of an employee's disability.

*Volpe v. N.Y.C. Dep't of Educ*., 195 F. Supp. 3d 582, 593 (S.D.N.Y. 2016).

The same is true in the seminal *Barker v. Riverside* case. Like Broome, the *Barker* teacher had standing to sue under Title II because the children she sought to protect "may need assistance

in vindicating their rights" under Title II. *Barker,* at 827. Yes, Barker and Broome lost their jobs, but it was for their underlying advocacy for students receiving inadequate services under Title II:

> Instead, Barker alleges that she was retaliated against and subsequently lost her job because she advocated for disabled students who were receiving inadequate public services--educational services provided by a public school--which are covered under Title II of the ADA ("Title II: Public Services"). *See* 42 U.S.C. § 12131, *et seq*. Public services provided to disabled students are the focus of Title II of the ADA. *See id*. Thus, Barker's claim was appropriately brought under Title II.

*Id.* at 828.

Where an employee's retaliation claim is based not upon her *own* disability, but instead upon her advocacy *for others in public programs,* Title II applies. *Bennett v. Bd. of Educ. Joint Voc. Sch. Dist.*, 2010 U.S. Dist. LEXIS 106033, *15 (S.D. Ohio 2010). Exhaustion of administrative remedies does not apply to that underlying claim. *Id.*

**B. Section 504 Does Not Require Administrative Exhaustion**

Regardless of the ADA claim, even where a plaintiff *is* relying upon her own disability (not here), Section 504 *still* does not require any administrative exhaustion. A direct action is appropriate.

"Section 504 'does not require [administrative] exhaustion' because the Rehabilitation Act 'derives its procedural requirements from Title VI, which does not have an exhaustion requirement.'" *Rae v. Woburn Pub. Sch*., 113 F.4th 86, 99 n.2 (1st Cir. 2024); *See also, Carter v. Chattanooga Charter School of Excellence*, No. 1:24-cv-245 (E.D. Tenn. 2025), at Docket Entry 15) (denying motion to dismiss for schoolteacher bringing claims under Title II and Section 504 based on her advocacy for students with disabilities); *see also, Davis v. Flexman*, 109 F. Supp. 2d 776, 802 (S.D. Ohio 1999) (counselor had standing to sue under Section 504 based upon advocating for a sign-language interpreter for a client).

### C. Protected Activity Has Been Alleged

Next, Defendant argues Plaintiff "fails to allege" an element of retaliation—protected activity.

This is an odd argument considering Defendant concedes that Plaintiff has clearly alleged participating in a multidisciplinary meeting for a student with a disability (paralysis) (D.E. 1, Complaint, ¶6); that she discussed how the paralyzed student was quite capable intellectually; (*Id*. at ¶8); and how Defendant was inappropriately using IDEA (for students with *learning-based needs* through specially designed instruction) because section 504 provides a paralyzed student with related services and reasonable accommodations. (*Id*. at ¶¶9-10). As Defendant states, "Plaintiff was advocating a less intensive special education legal framework" because she was *paralyzed* not in need of differentiated instruction. (D.E. 14, Memo, p. 7).

This advocacy to the parents is certainly protected because parents of children with a disability are entitled to robust discussion about meeting their child's needs—the opposite being a wall of teachers who have predetermined eligibility, needs, and services. Moreover, when Defendant upbraided Broome about her input on how paralysis should be served through reasonable accommodations rather than differentiated instruction, Broome engaged in further protected activity—telling Defendant the value of that input to parents of a child with a disability. (*Id*. at ¶¶15, 18).

That protected activity, in turn, caused the tempestuous Dr. Holloway to lose his temper for being challenged (he *was* being challenged, though professionally). (*Id*.) And it was for trying to explain the use of 504, not the IDEA, for a paralyzed student, that Defendant reprimanded her, barred her from further IEP meetings, and suspended her. (*Id*. at ¶19-22). In other words, the through-line is met—advocacy, anger, more advocacy, more anger, adverse actions.

### D. Adverse Action Has Been Alleged

Defendant next argues lack of facts identifying adverse action and a causal connection. This appears frivolous. Here, Defendant abandons the Rule 12(c) framework to argue, as if on summary judgment, whether the reprimand, removal of duties, and non-renewal of a contract are sufficiently severe to have "dissuaded a reasonable worker from making or supporting a charge of discrimination." *Burlington N. & Santa Fe Ry. Co.*, 548 U.S. 53, 68 (2006); *see also*, *Ura v. Tex. A&M Univ.*, 2025 LX 120846, at *9 (S.D. Tex. Jan. 3, 2025) (removing job duties is material under *Burlington*).

The Complaint sets forth each adverse action—reprimand, removal of job duties, suspension, denial of hearing, and non-renewal of contract—and factually ties them to Plaintiff's advocacy (D.E. 1, Complaint, ¶¶15-21). And then, Plaintiff neatly summarizes them:

> The retaliatory and discriminatory actions occasioned by Ms. Broome's protected speech include the reprimand, the removal of job duties, the suspension, and the denial of a hearing. These actions also caused Broome emotional distress, humiliation, and damage to her reputation. All of these actions were undertaken intentionally, with deliberate indifference, and/or with animus, based upon Broome's advocacy for a student with a disability.

(*Id*. at ¶22; see also ¶24). Of course, with time, it is now certain that Defendant did not renew Broome's contract. Defendant certainly knows this.

### E. Intent or Deliberate Indifference Has Been Alleged

Next, Defendant argues that magic words "deliberate indifference" or "intentional" are not used or else Plaintiff has not sufficiently alleged Defendant *knew* they were violating ADA and Section 504. Not so. Those descriptive words appear in paragraph 22 of the Complaint (as well as ¶28, ¶33). (*Id*. at ¶22). These follow Plaintiff explaining her advocacy, and the Defendant reacting in anger "lost his temper." (*Id*. at ¶15).

### F. Plaintiff is a Proper Party—She Is Not Trying to Alter an IEP

Next, Defendant argues Plaintiff is not a proper party "to the extent" she is seeking changes *made in a January 30 IEP* for the paralyzed student. (D.E. 14, Memo, pp. 11-12). This is time waster of an argument. Plaintiff is not trying to change the paralyzed student's IEP through this lawsuit. As Defendant says, Plaintiff is *not* seeking "relief under the IDEA." Nor has she plead the IDEA.

## III. FIRST AMENDMENT

### A. Public Concern Is Alleged

Defendant begins its scrutiny of the First Amendment claims by arguing lack of "public concern" under the *Garcetti* case. *Garcetti v. Ceballos*, 547 U.S. 410, 126 S. Ct. 1951, 164 L.Ed.2d 689 (2006). It is mistaken. After *Garcetti*, the Supreme Court decided *Lane v. Franks,* 573 U.S. 228 (2014). In *Lane,* "the mere fact that a citizen's speech concerns information acquired by virtue of his public employment does not transform that speech into employee—rather than citizen—speech." *Id.* at 240. This is for good reason: "speech by public employees on subject matter related to their employment holds special value precisely because those employees gain knowledge of matters of public concern through their employment." *Id.*

As to the "public concern" prong of the *Garcetti* analysis, "[t]he content of Lane's testimony—corruption in a public program and misuse of state funds—obviously involves a matter of significant public concern." *Id*. at 241.

Turning to the present case, Plaintiff was *challenging* the status quo at the school—she was *refusing* predetermination and lock-step uniformity to help a paralyzed girl. She rejected illegal predetermination. But even more broadly, she spoke as a public citizen because it would not be financially sustainable for the District to create IEPs for every person with an academic profile

like the girl in the wheelchair. (D.E. 1, Complaint, ¶9). That's because, in this Mississippi School District—the girl met or *exceeded* the academic profile of most students in the whole school. In other words, the school would be setting a precedent of requiring IEPs for good academic profiles, swamping the resources that are for the public. (*Id*.). The antidote to that public concern is to properly fit the student in question with a 504 plan. (Id. at ¶10). And when Plaintiff was upbraided for her view, she made it known to the administration too. (*Id*. at 12, 13, 15).

The point is that Broome certainly understood the ramifications of creating an IEP based on her job. But voicing concerns about creating a precedent that will be unsustainable for the school in terms of workload and finances (as the federal government famously underfunds IEPs) is beyond her scope as a teacher. That she sounded the alarm means she understood the risk, but spoke out of public concern relating to public resources. It is certainly not in her purview to decide financial questions but she sounded that alarm anyway. And she did this in a Manner protecting other students' funding too." (D.E. 1, Complaint, ¶26).

### B. *Pickering* Balancing Favors Plaintiff

Next, Defendant argues that the *Pickering* balancing favors the District. (D.E. 14, Memo, p. 15). But Defendant's presentation of the two sides in the Complaint is not accurate. The Complaint illustrates how Broome disagreed with providing a strong student with IEPs because it was not financially sustainable for the District. (D.E. 1, Complaint, ¶9). She was not rude, unpleasant, nor did anyone on the IEP Team react in such a manner. (*Id*. at ¶11).

Rather, it was the *administration* who wanted lock-step predetermination with no discussion or debate, as if its position were uniform rather than flexible, collaborative, and interactive. (*Id*. at ¶12). That defeats the entire IEP process: the process *must* be "collaborative," not predetermined, as "[p]redetermination occurs when the state makes educational decisions too

early in the planning process, in a way that deprives the parents of a meaningful opportunity to fully participate as equal members of the IEP team." *E.R. v. Spring Branch Indep. Sch. Dist*., 909 F.3d 754, 769 (5th Cir. 2018).

Once the allegations are *correctly* stated, it cannot possibly be said that predetermination outweighs the employee's contrary statements on this matter of public concern.

**C. Adverse Action Has Been Alleged**

Next, Defendant reprises its 504/ADA argument of lack of "adverse action." (D.E. 14, Memo, p. 16). The Supreme Court holds that adverse means "harmful to the point that [it] could well dissuade a reasonable worker from making or supporting a charge of discrimination." *Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53, 68 (2006). That standard was reiterated in *Muldrow v. City of St. Louis*, 601 U.S. 346, 357 (2024).

Defendant argues, under *Benningfield v. City of Houston*, 157 F.3d 369, 377 (5th Cir. 1998), that "discharges, demotions, refusals to hire, refusals to promote, and reprimands" are required. (D.E. 14, Memo, p. 16). There are two problems with the argument. First, as noted by *Ramos,* the *Benningfield* decision preceded *Burlington* and *Muldrow. Ramos v. Performance Contracting, Inc*., 2019 U.S. Dist. LEXIS 64019, at *16, n. 6 (S.D. Tex. Apr. 15, 2019).

Second, even without distinguishing *Benningfield,* Plaintiff experienced a series of adverse actions culminating in loss of her job—non-renewal of her contract. That is clearly an adverse action of the more formal type. *See, e.g*., *Hague v. Univ. of Tex. Health Sci. Ctr*., 560 F. App'x 328, 336 (5th Cir. 2014) (discussing how non renewal of contract is adverse action). It does not take a "possible future employment decision," as Defendant argues. (D.E. 14, Memo, p. 17).[1]

[1] Surprisingly, Defendant argues that reprimand, removal of job duties, suspensions, *and* non-renewal of contact are somehow not materially adverse. But this is just argument. There is no case law to state this. And as shown, the case law is opposite.

Finally, Defendant claims there is no plausible allegation of "causation." The motion is self-defeating here, as it acknowledges the "temporal sequence" between the meeting, the reprimand, the suspension. (*Id*.). But that's not all—Plaintiff does, in fact, show the antagonism toward her beginning with *administration* (D.E. 1, Complaint, ¶12) and how this escalated "the following day" to a specialist reprimand (*Id*. at ¶14), and, then next day, the superintendent losing his temper over the very same subject matter (*Id*. at ¶15). He was so loud and angry he could be heard through the walls. (*Id*.). The Complaint, continuing in the temporal fashion, alleges "things got worse," with the immediate suspension. (*Id*. at ¶16). These actions are summarized for easy reference, (Id. at ¶22), followed by non-renewal of her contract. (*Id*. at 23).

The court must also draw on its judicial experience and common sense, as allegations at the pleading stage "need not be detailed or specific." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). "As the Court held in *Twombly*, 550 U.S. 544, the pleading standard Rule 8 announces does not require 'detailed factual allegations,' [just] more than an unadorned, the-defendant-unlawfully-harmed-me accusation." *Id*. Plaintiff easily satisfies this standard.

**D. Municipal Liability Is Adequately Pled**

Next, Defendant argues that Broome has not "adequately alleged" municipal liability. (D.E. 14, Memo, p. 18). Local school districts are not considered arms of the State under the Eleventh Amendment and thus do not enjoy federal constitutional sovereign immunity. In *Monell v. Dep't of Social Services*, 436 U.S. 658 (1978), the Supreme Court held that local government was subject to suit—just not under a *respondeat superior* theory.

Rather, school districts are liable for their *own* "policies" or "customs." *Id*. at 691. Local governments may be held liable for *Monell's* "policy" or "custom" requirement where a high ranking official makes a "single decision to take particular action." *Pembaur v. City of Cincinnati*,

475 U.S. 469, 480 (1986). In *Pembaur*, a County Prosecutor was the "final authority" to hold local government liability. *Id*. at 485.

The question of "who is the final authority" for a "single decision" is not made at the pleadings stage, but before the case is submitted to the jury. *Jett v. Dallas Indep. Sch. Dist.*, 491 U.S. 701 (1989). Where a school board delegated authority to the superintendent, the superintendent may be considered a final policy maker for the school. *Id*. at 738.

In Mississippi, a superintendent has the "powers, authority and duties" delegated by the board to "enter into contracts in the manner provided by law with each…teacher of the public schools under his supervision." Miss. Code §37-9-14(2)(a). Thus, "non-renewal decisions" in Mississippi schools are presumed to be delegated to the superintendent. *Dearman v. Stone Cty. Sch. Dist*., 832 F.3d 577, 581 (5th Cir. 2016).

Whether the superintendent is a delegated final authority is a legal matter that is not ripe at the motion to dismiss stage. As the Fifth Circuit states:

> The Supreme Court has repeatedly emphasized that the identity of the policymaker is a question of law, not of fact—specifically, a question of state law. *See, e.g., City of St. Louis v. Praprotnik*, 485 U.S. 112, 124, 108 S. Ct. 915, 99 L. Ed. 2d 107 (1988) ("We begin by reiterating that the identification of policymaking officials is a question of state law."). By combining *Praprotniks* holding that the identity of the policymaker is a question of state law with *Johnsons* holding that courts should not grant motions to dismiss § 1983 cases "for imperfect statement of the legal theory," we see that courts should not grant motions to dismiss for failing to plead the specific identity of the policymaker. *Johnson*, 135 S. Ct. at 346. Thus, to survive a motion to dismiss, Groden needed only to plead facts—facts which establish that the challenged policy was promulgated or ratified by the city's policymaker. Groden's complaint did not need to supply an answer to the *legal* question of the specific identity of the city's policymaker under the relevant statutory scheme.

*Groden*, at 284-85.

Imperfect statements of legal theories do not matter in evaluating pleading requirements of a §1983 case:

> The Supreme Court recently addressed the pleading requirements for § 1983 cases in *Johnson v. City of Shelby, Miss.*, 135 S.Ct. 346, 190 L. Ed. 2d 309 (2014) (per curiam). In *Johnson*, this circuit had held that a § 1983 claim should be dismissed because the plaintiffs' complaint did not state the proper legal theory for the requested relief—the complaint failed to mention § 1983 at all. The Supreme Court reversed, saying that the plaintiffs' complaint "stated simply, concisely, and directly *events* that, they alleged, entitled them to damages from the city. Having informed the city of the *factual basis* for their complaint, they were required to do no more to stave off threshold dismissal for want of an adequate statement of their claim." *Id.* at 347 (emphasis added). Further, the Supreme Court held that when a complaint contains sufficient "*factual* allegations," a court should not grant a motion to dismiss "for imperfect statement of the legal theory supporting the claim asserted." *Id.* at 346 (emphasis original).

*Groden v. City of Dall.*, 826 F.3d 280, 284 (5th Cir. 2016).

Even though this is not at the summary judgment stage, "plausibility" and reasonable inferences matter. And here, the Complaint alleges the superintendent personally reprimanded Broome; the superintendent removed her job duties; the superintendent suspended her; the superintendent denied her hearing; *and* the superintendent decided not to renew her contract. (D.E. 1, Complaint, ¶¶15-24).

The Complaint does *not* rely on respondeat superior, but rather, the District itself. (*Id*. at ¶32). Broome spoke out against a standard that could "plunge the district into having IEPs for a disproportionate number of students," (*Id*. at ¶31), and a person with final policy making authority (i.e. the superintendent through delegation), engaged in the retaliation. (*Id*. at ¶32). An "official policy" includes decisions by an official to whom the lawmakers have delegated policy-making authority. *Franco v. City of Bulverde*, 2025 U.S. Dist. Lexis 101424 (W.D. Tex. May 28, 2025) (*quoting Webster v. City of Houston*, 735 F.2d 838, 841 (5th Cir. 1984)).

Finally, Defendant argues insufficient pleading of a "moving force." Moving force, of course, focuses on the direct causal connection between the policy and the constitutional deprivation. (See D.E. 1, Complaint, ¶¶32-33). A number of violations (in this case, reprimand,

removal of job duties, suspension, denial of hearing, and non-renewal of contract) plus a disdain for the Plaintiff is sufficient to allege moving force. *Moses v. City of New Orleans*, 2025 LX 146147, at *23 (E.D. La. Mar. 14, 2025). Additionally, one may show at trial that a policy was the "moving force" by showing either the policy itself was unconstitutional or that it was adopted with deliberate indifference to constitutional violations. *Webb v. Town of Saint Joseph*, 925 F.3d 209, 219 (5th Cir. 2019).

There is no question that this school district was taking action—repeatedly and increasingly aggressively—against Broome's speech because she did not cater to the normative practice of aligning like lemmings rather than debating important issues for a student. And when Broome pointed out how this would, in time, be an unsustainable practice for the district, they viewed her speech as insubordinate. Finally, when she appealed, she did so over the express warning from her principal that the superintendent would likely retaliate by not rehiring her. (D.E. 1, Complaint, fn. 2).

## IV. FOURTEENTH AMENDMENT IS PROPERLY PLED

Next, Defendant argues Plaintiff does not state a Fourteenth Amendment claim because she has no property interest in her non-renewed employment. (D.E. 14, Memo, pp. 19-20). But as Defendant concedes: "A public school teacher has a constitutionally protected property interest in continued employment if he can demonstrate a reasonable expectation of continued employment." *Nunez v. Simms*, 341 F.3d 385, 388 (5th Cir. 2003). That is different than arguing a guarantee based on status alone. In this case, Plaintiff certainly did have such an expectation—as the Complaint shows, it was removed solely for her protected activity. Were it otherwise, Defendant could use the device of non-renewal to dangerously chill the First Amendment.

Second, Defendant argues that it may promise her a hearing and then deny the hearing because being berated by the superintendent in a meeting constitutes her "minimal due process." (D.E. 14, Memo, p. 22). As the Complaint shows, the superintendent *reprimanded her*, lost his temper, and he yelled so loud it could be heard through the walls. (D.E. 1, Complaint, ¶15). There is no indication this was the hearing or a meaningful opportunity to be heard—this was a retaliatory thrashing, no more, no less. Defendant cannot convert it to something it plainly was not on a motion to dismiss.

Third, Defendant again argues about *Monell*, this time for a procedural due process claim under the Fourteenth Amendment. (D.E. 14, Memo, p. 23; D.E. 1, Complaint, ¶34). But the Plaintiff must simply plead interference with a liberty or property interest; and the procedures were constitutionally insufficient. *Jessica v. Burkburnett Indep. Sch. Dist*., 2025 LX 246980, at *7 (N.D. Tex. Apr. 23, 2025) (*citing Ky. Dep't of Corr. v. Thompson*, 490 U.S. 454, 460, 109 S. Ct. 1904, 104 L. Ed. 2d 506 (1989). Here the school district not only failed to provide the process (the hearing), but the principal warned Broome that, were she to appeal, the superintendent might not rehire her. (D.E. 1, Complaint, ¶2).

## IV. ARGUMENTS ABOUT REMEDIES AND STANDING

### A. Equitable Relief Is Available

Next, Defendant creates "standing" issues about injunctive relief, but the precise relief that is objectionable is not stated. Plaintiff has sought *training*. (See D.E. 1, Complaint, IV. E., p. 8). Were she instated, training would be considered "other equitable relief," as the statutes plead herein provide for equitable relief. *See, e.g*., *Doe v. District of Columbia*, 796 F. Supp. 559, 571 (1992) ("back pay and other equitable relief are allowed under Title VI, so too are they permitted under the Rehabilitation Act.").

### B. Emotional Distress, Compensatory and Punitive Damages

Next, Defendant argues against emotional distress, pain and suffering, humiliation, etc. and punitive damages. (D.E. 14, Memo, p. 24). But Plaintiff is not seeking these damages under Section 504. Defendant is correct that *Cummings v. Premeir Rehab. Keller, PLLC,* 142 S.Ct. 1562 (2022) would not permit them. (*Id*.).

This is not the case under the remaining statutes. For example, "it is not improper for Plaintiffs to seek such damages under the ADA" because whether *Cummings* applies to the ADA remains an "open question." *Adams v. Pascagoula-Gautier Sch. Dist*., 2025 LX 272172, at *19 (S.D. Miss. July 16, 2025).

Nowhere does Plaintiff seek punitive damages.

## V. OTHER PLEADING ISSUES

Last, Defendant quarrels about "labels and conclusions." (D.E. 14, Memo, p. 25). Quite the opposite, Plaintiff has issued a highly user-friendly complaint, replete with notice, with factual sufficiency, all well organized, explaining precisely how and why Defendant is being sued.[2]

The motion is not well taken in any regard and, as a result, should be denied.

Respectfully submitted,

*s/ Kevin W. Frye*

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[2] For an excellent discussion of blurred lines between what is a "fact" and the risk of applying the word "conclusion" over-expansively, see Arthur R. Miller, *From Conley to Twombly to Iqbal*: *A Double Play on the Federal Rules of Civil Procedure*, 60 Duke L.J. 1, 130 n.79 (2010).

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**Attorneys for Plaintiff**

**CERTIFICATE OF SERVICE**

I have served the following opposition memorandum to the Motion to Dismiss upon Defendant's counsel, KaShonda L. Day and Mary Clark Joyner, through the ECF filing system of the Court, on this the 12th day of December 2025.

*s/ Janet H. Goode*
Janet H. Goode

**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

**MELISSA BROOME** **PLAINTIFF**

**VS.** **CIVIL NO.: 3:25-CV-234-DPJ-ASH**

**VICKSBURG WARREN SCHOOL DISTRICT** **DEFENDANT**

---

**REPLY IN SUPPORT OF RULE 12(c) MOTION FOR JUDGMENT ON THE PLEADINGS FOR FAILURE TO STATE A CLAIM**

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The District submits this reply in further support of its Motion. [Doc. 13, 14]. Even assuming *arguendo* that Title II could be a cognizable vehicle in this Circuit for a school employee's advocacy-based retaliation theory, Plaintiff's claims still fail for multiple, independent reasons.

The complaint does not plausibly allege protected activity under the ADA or Section 504, 42 U.S.C. § 12203(a); *Feist v. La. Dep't of Just.*, 730 F.3d 450, 454–55 (5th Cir. 2013), nor does it plead First Amendment citizen speech on a matter of public concern under *Garcetti v. Ceballos*, 547 U.S. 410, 421–22 (2006) and *Connick v. Myers*, 461 U.S. 138, 146–49 (1983). Her retaliation theories fail for lack of a materially adverse action and but-for causation. *Univ. of Tex. Sw. Med. Ctr. v. Nassar*, 570 U.S. 338, 360–62 (2013); *Strong v. Univ. Healthcare Sys., LLC*, 482 F.3d 802, 808–09 (5th Cir. 2007). Plaintiff's Response confirms these defects by attempting to amend through briefing, pressing "predetermination" and "nonrenewal" theories never pled, and by misstating the IDEA's scope and process. The Court should dismiss the complaint with prejudice.

**Reply Argument**

Rule 12(c) is evaluated under the same plausibility standard as Rule 12(b)(6). The Court considers a complaint's well-pleaded facts and disregards new factual matter offered in a response

brief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555–57 (2007).

**A. Plaintiff may not amend her Complaint through her Response.**

Plaintiff's Response tries to repackage her Complaint with new narratives, including "predetermination" at the IEP meeting and a completed "nonrenewal" decision. [Doc. 15] at 5–7. Those allegations are not pleaded and cannot be supplied through briefing. The Complaint alleges only a single meeting Plaintiff describes as "pleasant, appropriate, and informed," after which she "assented" to a draft IEP so the student would receive services. Compl. ¶11. Those allegations are incompatible with a predetermination theory, which is unpled. *E.R. v. Spring Branch Indep. Sch. Dist.*, 909 F.3d 754, 769 (5th Cir. 2018) (predetermination concerns arise when the state "makes educational decisions too early in the planning process" in a manner that deprives parents of "meaningful opportunity to participate" as equal IEP team members). As to employment status, Plaintiff alleges only that, as of filing, she had not yet received a renewal contract and that, "upon information and belief," the Superintendent had decided not to renew it. Compl. ¶¶ 23–24. Plaintiff cannot transform those allegations into new claims, new events, or materially different facts at the Rule 12(c) stage. *See Iqbal*, 556 U.S. at 678–79.

**B. Even if Title II applies, Plaintiff has not pled retaliation under the ADA or Section 504.**

Plaintiff's Complaint does not allege (1) protected activity, (2) a materially adverse action, and (3) but-for causation to state retaliation under the ADA or Section 504. *Feist*, 730 F.3d at 454–55; *January v. City of Huntsville*, 74 F.4th 646, 652–53 (5th Cir. 2023); *Nassar*, 570 U.S. at 360.

*1. Protected activity is not pleaded.*

The ADA protects individuals who oppose an act made unlawful by the ADA or who participate in an ADA proceeding. 42 U.S.C. § 12203(a). Plaintiff does not allege that she

complained about disability discrimination, unlawful activity, opposed the denial of accommodation, or made (or assisted with) any ADA/Section 504 charge or proceeding. Instead, she alleges she expressed a professional judgment during an IEP/MET meeting that the student should be served under Section 504 rather than the IDEA. Compl. ¶¶7–11. That allegation describes an internal eligibility discussion, not opposition to an unlawful discriminatory practice. And Plaintiff's own pleading undercuts the idea that she was insisting on greater disability protections[1]: she alleges she worried that identifying additional students under the IDEA would "swamp[2]" special education staff. Compl. ¶9. Whatever one calls that concern, it is not protected opposition to disability discrimination under Section 504 or the ADA.

Plaintiff relies on out-of-circuit authorities recognizing retaliation claims where an educator reported statutory violations or pressed disability-rights concerns on behalf of students. [Doc. 15] at 4-5. Even if such third-party advocacy can qualify as protected activity in some circumstances, Plaintiff does not allege she reported noncompliance, opposed a discriminatory denial of accommodations, or invoked any ADA/Section 504 enforcement process. She describes a single, internal meeting about IDEA-versus-Section-504 eligibility, followed by her assent to the

[1] The IDEA affords students with disabilities the highest level of protections. While Section 504 of the Rehabilitation Act has broader coverage in terms of who qualifies as disabled, the IDEA provides more comprehensive procedural safeguards and substantive rights for those students who are eligible under it. *S. v. West Chester Area Sch. Dist.*, 353 F.Supp.3d 369, fn. 1 (E.D. Pa. 2019).

[2] Nor do cost, caseload, or resource constraints control the level or content of special education services. The Supreme Court requires an individualized program "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances," not one set by administrative convenience. *Endrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE–1*, 580 U.S. 386, 399 (2017). Plaintiff's own allegations emphasize that, aside from Plaintiff, the IEP team sought to maximize IDEA services and legal protections, which is precisely what the IDEA contemplates. Compl. ¶¶8–12; 20 U.S.C. §§ 1401(9), (29), 1414(d). To the extent Plaintiff's comments raised workload and "swamping" concerns about expanding IDEA eligibility, those resource considerations cannot lawfully supplant the statute's individualized educational mandate. *Endrew F.*, 580 U.S. at 399; Compl. ¶9. The Supreme Court has explicitly rejected the notion that the nature and cost of services can be determinative factors in deciding whether to provide services to disabled students. *Cedar Rapids Community Sch. Dist. v. Garret F. ex rel. Charlene F.*, 526 U.S. 66 (1999).

draft IEP. Compl. ¶11. That is not plausibly protected activity under Section 12203(a). Courts distinguish routine, duty-bound intra-team judgments from protected opposition or participation. *Frakes v. Peoria Sch. Dist. No. 150*, 872 F.3d 545, 551 (7th Cir. 2017) (professional disagreements about pedagogy/placement, even if framed as better for disabled students, are not protected absent opposition to unlawful discrimination). That is all Plaintiff alleges.

A Texas district court illustrates what protected activity in this context looks like: repeated reports of special education law violations, denial of access to compliance tools, escalation to administrators, and a Texas Education Agency IDEA noncompliance finding, conduct the court contrasted with "mere assistance." *LaRocca v. Alvin Indep. Sch. Dist.*, 2024 WL 844910, at 5–6 (S.D. Tex. Feb. 28, 2024). Plaintiff alleges the opposite: one internal, "pleasant" eligibility discussion and caseload concerns, followed by assent to the IEP, with no report of legal violations or agency proceeding. Compl. ¶¶7–11. Plaintiff's Response also suggests that the IDEA is "just for" learning-based disabilities. [Doc. 15] at 6-7. That premise is incorrect; the IDEA's disability categories include, among others, orthopedic impairment, and other health impairment. 34 C.F.R. § 300.8(c). But that statutory point does not transform Plaintiff's internal eligibility disagreement into protected opposition to disability discrimination under the ADA or Section 504.

*2. Material adversity and causation.*

Plaintiff points to reprimands, directives/training, removal from IEP duties, a two-day unpaid suspension, and an inchoate theory of nonrenewal. Compl. ¶¶14–24. Even assuming *arguendo* that the two-day unpaid suspension qualifies as materially adverse, Plaintiff still must plead that it occurred because of protected activity, *i.e.*, but-for causation. *Nassar*, 570 U.S. at 360. She does not. The Complaint itself pleads a non-protected intervening basis for discipline: the Superintendent's stated reason for the suspension was that Plaintiff "got up and walked out" of the

meeting with him. Compl. ¶16. Plaintiff disputes that characterization, Compl. ¶18, but she pleads no nonconclusory facts supporting a plausible inference that, but-for protected activity under the ADA/Section 504, she would not have been disciplined. Temporal proximity and subjective belief are not enough. *Strong*, 482 F.3d at 808–09. Plaintiff's nonrenewal allegations are likewise speculative. She does not allege that the Board has voted to nonrenew, that statutory nonrenewal procedures were invoked, or that any final decision has been made. Compl. ¶¶23–24. On a municipal employer theory, speculative "information and belief" allegation does not plausibly plead a materially adverse act or but-for causation.

*3. Compensatory damages are not warranted.*

Compensatory damages under Section 504 and Title II require intentional discrimination (often framed as deliberate indifference). Plaintiff pleads only conclusory labels of "retaliation" and "deliberate indifference" without facts showing deliberate disregard of a known, substantial likelihood of a statutory violation. *Delano-Pyle v. Victoria Cnty*., 302 F.3d 567, 575–76 (5th Cir. 2002). Plaintiff also concedes that emotional distress damages are unavailable under Section 504 after *Cummings v. Premier Rehab Keller, PLLC*, 142 S. Ct. 1562 (2022). [Doc. 15] at 15. To the extent Plaintiff continues to demand emotional distress damages under Title II, the Court need not resolve any broader remedial debate at the pleading stage because the underlying claim is not plausibly pled, nor does the Complaint allege recoverable, nonconclusory pecuniary harm.

**C. Her First Amendment retaliation claim fails, and she has not pled *Monell* liability.**

Plaintiff's First Amendment claim fails because her alleged speech was made pursuant to her official duties and did not address a matter of public concern. *Garcetti*, 547 U.S. at 421–22; *Connick*, 461 U.S. at 146–48. She also fails to plead a municipal policy or final policymaker action as required under *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 690–95 (1978).

1. *No citizen speech and no public concern.*

Plaintiff alleges she is a special education teacher whose job required participation in eligibility and IEP meetings, and her alleged statements were made in that role during the meeting. Compl. ¶¶ 5–8. That is classic job-duty speech under *Garcetti*. *Williams v. Dallas Indep. Sch. Dist.*, 480 F.3d 689, 693–95 (5th Cir. 2007); *Davis v. McKinney*, 518 F.3d 304, 312–15 (5th Cir. 2008); *Cavazos v. Edgewood Indep. Sch. Dist.*, 210 F. App'x 414, 416–17 (5th Cir. 2006). And even if it were citizen speech, it concerns an internal dispute about a single student's eligibility and Plaintiff's workload, not matters of public concern under *Connick*. *Lamar v. Clayton Cnty. Sch. Dist.*, 605 F. App'x 804, 808–10 (11th Cir. 2015) (special education teacher's IEP team statements were within her role and not citizen speech).

Even if she could clear *Garcetti*, Plaintiff's content, form, and context reflect an internal dispute about a single student's eligibility and workload, matters of internal operations, not speech on a matter of public concern. *Connick*, 461 U.S. at 146–49; *Beattie v. Madison Cnty. Sch. Dist.*, 254 F.3d 595, 601–02 (5th Cir. 2001). Courts addressing teacher remarks in IEP contexts are to similar effect. *Lamar*, 605 F. App'x at 807–08 (IEP team statements not public concern speech); *Stahura–Uhl v. Iroquois Cent. Sch. Dist.*, 836 F. Supp. 2d 132, 139–44 (W.D.N.Y. 2011) (speech to supervisors, co-workers, and parents about IEPs/resources was pursuant to duties and unprotected). Plaintiff's reliance on *Lane v. Franks* is misplaced: *Lane* protects subpoenaed, sworn testimony outside ordinary duties; it reaffirms *Garcetti* for duty-bound communications. *Lane v. Franks*, 573 U.S. 228, 238–42 (2014). Further, *Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968), would favor the District's significant interests in orderly IEP processes, coherent parent communications, and effective internal working relationships. Plaintiff's own allegations depict administrators responding to preserve process cohesion following an internal meeting dispute.

*2. Adverse action and causation do not exist.*

In the First Amendment public-employee context, adverse actions include discharges, demotions, refusals to hire/promote, and comparable status changes; minor reprimands and duty adjustments generally do not qualify. *Benningfield v. City of Houston*, 157 F.3d 369, 376–77 (5th Cir. 1998). Plaintiff alleges reprimands, training directives, removal from IEP duties, a two-day suspension, and a speculative nonrenewal. Compl. ¶¶14–24. Even as to suspension, she pleads only timing and her belief that administrators were displeased with her IEP comments; she alleges no nonconclusory facts suggesting that protected citizen speech on a matter of public concern was a substantial or motivating factor. *Beattie*, 254 F.3d at 601–02; *Strong*, 482 F.3d at 808–09.

3. *No Monell liability.*

The District cannot be held vicariously liable under Section 1983. Plaintiff must plead an official policy or custom and a final policymaker whose action was the moving force behind a constitutional violation. *Monell*, 436 U.S. at 690–95; *Piotrowski v. City of Houston*, 237 F.3d 567, 578 (5th Cir. 2001). Plaintiff alleges only isolated employment actions directed at one employee. Compl. ¶¶ 14–21, 23–24, 30–33. She identifies no policy or widespread practice of retaliation against teachers. Nor does she plausibly plead action by a final policymaker. Under Mississippi law, the school board, not the superintendent, is the final policymaker for teacher employment matters such as suspensions and nonrenewals. Miss. Code Ann. §§ 37-9-59, 37-9-101 to -113. Plaintiff alleges no board action, ratification, or delegation of final policymaking authority. *City of St. Louis v. Praprotnik*, 485 U.S. 112, 123–28 (1988).

**D. Plaintiff's procedural due process claim and request for prospective relief do not save her Complaint.**

For short suspensions, due process requires notice of the charge and an opportunity to respond, not a full evidentiary hearing. *Goss v. Lopez*, 419 U.S. 565, 581–84 (1975). Plaintiff

pleads that the District issued a written notice of the suspension, stated the alleged basis for discipline, and afforded Plaintiff an opportunity to contest the allegations through a written appeal. Compl. ¶¶16–21. Even if Plaintiff contends that state law procedures were not followed to her liking, an alleged violation of state procedure does not state a federal due process claim where minimum constitutional requirements were satisfied. *Goss*, 419 U.S. at 583–84.

Plaintiff seeks declaratory and injunctive relief and broad damages. Compl. ¶¶8–9. To the extent Plaintiff seeks prospective relief untethered to any plausible ongoing violation, past injury alone is insufficient; she must allege a real and immediate threat of future injury. *City of Los Angeles v. Lyons*, 461 U.S. 95, 101–05 (1983). And as Plaintiff concedes, emotional-distress damages are unavailable under Section 504 after *Cummings*. [Doc. 15] at 15. Punitive damages are unavailable under Title II and Section 504 and are unavailable against a municipality under Section 1983. *Barnes v. Gorman*, 536 U.S. 181, 189–90 (2002).

Plaintiff has filed a detailed Complaint but still cannot plausibly plead protected activity under the ADA or Section 504, constitutionally protected citizen speech, or *Monell* liability. Her Response confirms that she seeks to proceed on theories not pleaded and facts not alleged and thus offers no legal basis to avoid dismissal. Because further amendment would be futile, dismissal with prejudice is warranted. *Great Plains Tr. Co. v. Morgan Stanley Dean Witter & Co.*, 313 F.3d 305, 329 (5th Cir. 2002). The Court should grant the District's Rule 12(c) Motion and dismiss the complaint with prejudice.

Respectfully submitted, this the 19th day of December 2025.

**VICKSBURG WARREN SCHOOL DISTRICT**

By: */s/ KaShonda L. Day*
One of Its Attorneys

OF COUNSEL:

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**CERTIFICATE OF SERVICE**

I, KaShonda L. Day, Attorney for Defendant, do hereby certify that I have this day filed, with Plaintiff's counsel of record a true and correct copy of the above and foregoing document, which will be distributed *via* the electronic court filing system.

Dated: December 19, 2025

*/s/ KaShonda L. Day*
KaShonda L. Day, Esq.

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

**MELISSA BROOME** **PLAINTIFF**

**VS.** **CIVIL NO.: 3:25-CV-234-DPJ-ASH**

**VICKSBURG WARREN SCHOOL DISTRICT** **DEFENDANT**

**NOTICE OF SERVICE**

Please take note that Defendant Vicksburg Warren School District (VWSD), through undersigned counsel, has this day served the following on all counsel of record:

1. *VWSDs Responses to Plaintiff's First Set of Requests for Production of Documents*

Respectfully submitted, this the 6th day of February 2026.

**VICKSBURG WARREN SCHOOL DISTRICT**

By: */s/ Mary Clark Joyner*

**OF COUNSEL:**

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**CERTIFICATE OF SERVICE**

I certify that I have this day filed a true and correct copy of this pleading with the Clerk of Court *via* the ECF Filing System, which caused notice of filing to be served on all registered counsel of record. I further certify I have emailed the discovery responses to all counsel of record registered with ECF in this matter.

Dated: February 6, 2026.

/s/ *Mary Clark Joyner*

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

**MELISSA BROOME** **PLAINTIFF**

**VS.** **CIVIL NO.: 3:25-CV-234-DPJ-ASH**

**VICKSBURG WARREN SCHOOL DISTRICT** **DEFENDANT**

**NOTICE OF SERVICE**

Please take note that Defendant Vicksburg Warren School District (VWSD), through undersigned counsel, has this day served the following on all counsel of record:

1. *VWSDs Responses to Plaintiff's First Set of Interrogatories.*

Respectfully submitted, this the 16th day of February 2026.

**VICKSBURG WARREN SCHOOL DISTRICT**

By: */s/ Mary Clark Joyner*

**OF COUNSEL:**

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**CERTIFICATE OF SERVICE**

I certify that I have this day filed a true and correct copy of this pleading with the Clerk of Court *via* the ECF Filing System, which caused notice of filing to be served on all registered counsel of record. I further certify I have emailed the discovery responses to all counsel of record registered with ECF in this matter.

Dated: February 16, 2026.

/s/ *Mary Clark Joyner*

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

**MELISSA BROOME** **PLAINTIFF**

**VS.** **CIVIL NO.: 3:25-CV-234-DPJ-ASH**

**VICKSBURG WARREN SCHOOL DISTRICT** **DEFENDANT**

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**NOTICE OF SERVICE OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

---

COMES NOW Defendant Vicksburg Warren School District, by and through its undersigned counsel, and hereby gives notice that on this date, Defendant served its First Set of Requests for Production of Documents to Plaintiff upon Plaintiff Melissa Broome, by and through her counsel of record, via electronic mail pursuant to Rule 33 of the Federal Rules of Civil Procedure.

Respectfully submitted, this the 16th day of February, 2026.

**VICKSBURG WARREN SCHOOL DISTRICT**

By: /s/ *Mary Clark Joyner*
One of its Attorneys

OF COUNSEL:

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maryclark.joyner@arlaw.com

**CERTIFICATE OF SERVICE**

I, Mary Clark Joyner, Attorney for Defendant, do hereby certify that I have this day filed, with Plaintiff's counsel of record a true and correct copy of the above and foregoing document, which will be distributed via electronic filing to the following counsel for Plaintiff:

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*Pro Hac Vice*

Dated: February 16, 2026.

*/s/ Mary Clark Joyner*
Mary Clark Joyner, Esq.

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

**MELISSA BROOME** **PLAINTIFF**

**VS.** **CIVIL NO.: 3:25-CV-234-DPJ-ASH**

**VICKSBURG WARREN SCHOOL DISTRICT** **DEFENDANT**

---

**NOTICE OF SERVICE OF DEFENDANT'S FIRST SET OF INTERROGATORIES TO PLAINTIFF**

---

COMES NOW Defendant Vicksburg Warren School District, by and through its undersigned counsel, and hereby gives notice that on this date, Defendant served its First Set of Interrogatories upon Plaintiff Melissa Broome, by and through her counsel of record, via electronic mail pursuant to Rule 34 of the Federal Rules of Civil Procedure.

Respectfully submitted, this the 16th day of February, 2026.

**VICKSBURG WARREN SCHOOL DISTRICT**

By: /s/ *Mary Clark Joyner*
One of its Attorneys

OF COUNSEL:

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**CERTIFICATE OF SERVICE**

I, Mary Clark Joyner, Attorney for Defendant, do hereby certify that I have this day filed, with Plaintiff's counsel of record a true and correct copy of the above and foregoing document, which will be distributed via electronic filing to the following counsel for Plaintiff:

KEVIN W. FRYE, MSB # 101871
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Dated: February 16, 2026.

*/s/ Mary Clark Joyner*
Mary Clark Joyner, Esq.

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

**MELISSA BROOME** **PLAINTIFF**

**VS.** **CIVIL NO.: 3:25-CV-234-DPJ-ASH**

**VICKSBURG WARREN SCHOOL DISTRICT** **DEFENDANT**

**JOINT MOTION FOR EXTENSION OF DISCOVERY AND MOTION DEADLINES AND RESETTING SETTLEMENT CONFERENCE AND PRETRIAL CONFERENCE**

COMES NOW Plaintiff Melissa Broome ("Plaintiff") and Defendant Vicksburg Warren School District ("the District"), by and through their respective counsel, and file this Joint Motion for Extension of Discovery Deadlines, Motions Deadlines, and Resetting Settlement Conference and Pretrial Conference, as follows:

1. The discovery deadline in this matter is currently set for March 18, 2026, and the deadline for motions runs April 1, 2026.

2. In addition, this matter is set for a settlement conference on March 26, 2026 and a pretrial conference on Friday, August 14, 2026.

3. The parties have engaged in written discovery and are in the process of setting at least two depositions. Due to the availability of all counsel and the parties themselves, the parties anticipate setting depositions to occur on March 23, 2026 and/or March 27, 2026 but have not been confirmed. The parties may also intend to supplement discovery after the depositions occur.

4. Therefore, the parties seek a 21-day discovery extension until April 8, 2026 to complete discovery, including potential supplementation of written responses in light of the depositions.

5. Because of the request for the above discovery extension, the parties also seek to extend the motions deadline set for April 1, 2026, to be extended to April 29, 2026.

6. Further, in light of needing to complete depositions and discovery, the parties seek to reset the Settlement Conference that is presently set for March 26, 2026 so as to be in a posture to have a productive settlement conference.[1]

7. For these reasons, and in the interests of judicial economy, it is respectfully requested that the current scheduling deadlines, including the settlement conference, be extended as requested and reset after discovery is complete.

8. Moreover, a resetting of the current pretrial conference date of August 14, 2026 is requested. This request comes in light of Plaintiff's counsel necessitating being on the West Coast from Thursday August 13 – Monday August 17, 2026 for a family wedding planned and scheduled after the Court's Case Management Order was entered.

9. Counsel for Defendants does not object to the above request, and Plaintiff does not oppose the instant Motion, and in fact joins in the same.

**WHEREFORE, PREMISES CONSIDERED**, Plaintiff Melissa Broome and Defendant Vicksburg Warren School District respectfully request that the Court extend the current scheduling deadlines as requested and reset the pretrial conference to occur days before August 13, 2026 or shortly thereafter, so as not to disrupt the trial setting. The parties also request any and all other and further relief as the Court deems appropriate.

Respectfully submitted, this the 2nd day of March 2026.

**VICKSBURG WARREN SCHOOL DISTRICT**

By: /s/ *Mary Clark Joyner*
One of its Attorneys

1 Further, the undersigned has an Omnibus Hearing before the Honorable Judge Rath in a pro se prisoner matter on March 26, 2026 at 930 a.m. in Gulfport.

OF COUNSEL:

KaShonda L. Day, Esq. (MS Bar No. 103144)
Mary Clark Joyner, Esq. (MS Bar No. 105954)
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kashonda.day@arlaw.com
maryclark.joyner@arlaw.com

**CERTIFICATE OF SERVICE**

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to all counsel of record.

Dated this the 2nd day of March 2026.

*/s Mary Clark Joyner*

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

**MELISSA BROOME** **PLAINTIFF**

**VS.** **CIVIL NO.: 3:25-CV-234-DPJ-ASH**

**VICKSBURG WARREN SCHOOL DISTRICT** **DEFENDANT**

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**NOTICE OF DEPOSITION**

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PLEASE TAKE NOTICE that the undersigned counsel for the Vicksburg Warren School District will take the oral deposition of Melissa Broome beginning at 10:00 a.m. on Friday, March 27, 2026, via zoom. The deposition will be taken before a certified court reporter and will continue from day to day until completion. You are invited to participate as you deem necessary.

Respectfully submitted, this the 18th day of March 2026.

**VICKSBURG WARREN SCHOOL DISTRICT**

By: /s/ *Mary Clark Joyner*
One of its Attorneys

OF COUNSEL:

KaShonda L. Day, Esq. (MS Bar No. 103144)
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**CERTIFICATE OF SERVICE**

I do hereby certify that I have this day electronically filed the foregoing document with the Clerk of the Court using the ECF filing system, which sent notification of such filing to all counsel of record.

Dated: March 18, 2026.

*/s/ Mary Clark Joyner*
Mary Clark Joyner, Esq.

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

**MELISSA BROOME**

**PLAINTIFF.**

**VS.** **NO. 3:25-cv-234-DPJ-ASH**

**JURY DEMANDED**

**VICKSBURG WARREN SCHOOL DISTRICT**

**DEFENDANT.**

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**NOTICE OF INTENT TO DEPOSE DR. TORIANO HOLLOWAY**

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Please take notice that, pursuant to Rule 30(b)(1) and Rule 45 of the Federal Rules of Civil Procedure, the Plaintiff shall, by and through counsel, take the deposition upon oral examination of Dr. Toriano Holloway starting at 9:00 a.m. Central time on March 31, 2026, via Zoom and going until such time as the deposition is completed. The deposition will be conducted before a certified court reporter.

DATED this 19th day of March, 2026.

Respectfully submitted,

*/s/ Kevin W. Frye*
**KEVIN W. FRYE, MSB # 101871**
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[continued on next page]

*/s Justin S. Gilbert*
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*Pro Hac Vice*

*/s/ Janet H. Goode*
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*Pro Hac Vice*

**Attorneys for Plaintiff**

**CERTIFICATE OF SERVICE**

I have served the foregoing upon Defendant's counsel, KaShonda L. Day and Mary Clark Joyner, through the ECF filing system of the Court, on this the 19th day of March, 2026.

*/s/ Janet H. Goode*
Janet H. Goode

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

| | |
|---|---|
| **MELISSA BROOME** | **PLAINTIFF** |
| **VS.** | **CIVIL NO.: 3:25-CV-234-DPJ-ASH** |
| **VICKSBURG WARREN SCHOOL DISTRICT** | **DEFENDANT** |

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**DEFENDANT'S MOTION FOR LEAVE FOR ITS INSURANCE REPRESENTATIVE TO ATTEND THE MARCH 26, 2026 SETTLEMENT CONFERENCE REMOTELY**

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Defendant Vicksburg Warren School District ("VWSD" or the "District") respectfully moves for leave for its insurance representative, Kari Finnegan, CPCU, AIC, Sr. Claims Specialist II, Verticals & Programs CST, Liberty Mutual Insurance, to attend the March 26, 2026 settlement conference remotely, should the Court require her attendance. In support, the District states as follows:

The Court's Case Management Order sets a settlement conference for March 26, 2026 before United States Magistrate Judge Andrew S. Harris and directs that local counsel, lead counsel, and "all parties, including a person with full settlement authority, must appear in person at the settlement conference unless excused in advance by the Court," further providing that a party seeking leave to attend remotely must file a motion at least seven days before the conference. The District files this motion within that timeframe and seeks leave solely for its insurer representative to appear remotely, while committing that lead counsel and a District representative with full settlement authority will appear in person.

Good cause exists to grant this relief. Ms. Finnegan is based out-of-state in Forest Park, Ohio, and remote participation will avoid unnecessary travel time and expense without diminishing

the quality or effectiveness of the conference. Ms. Finnegan will have full settlement authority for Liberty Mutual with respect to this matter and will be continuously available by secure video and telephone for the duration of the conference and any follow-on sessions that day, will be able to join separate caucuses as directed by the Court. Allowing her to participate remotely will ensure that all decision-makers are available and engaged while minimizing logistical burdens, and it will not prejudice Plaintiff or impair the conduct of the conference. The District and its counsel will be present in person and prepared to proceed consistent with the Court's procedures and expectations.

Accordingly, the District respectfully requests that the Court enter an order permitting Ms. Finnegan to attend the March 26, 2026 settlement conference remotely. If the Court prefers or requires additional logistical details (technology platform, connection testing, contact information, or availability windows), the District will promptly provide them to chambers.

WHEREFORE, the District requests that the Court grant this motion and allow the appearance of the District's insurer representative, identified below, by remote means at the March 26, 2026 settlement conference:

Kari Finnegan, CPCU, AIC Sr. Claims Specialist II, Verticals & Programs CST Liberty Mutual Insurance Forest Park, Ohio Office: 513-603-7443.

This the 19th day of March, 2026.

Respectfully submitted,

**VICKSBURG WARREN SCHOOL DISTRICT**

By: /s/ KaShonda L. Day
*Attorney*

OF COUNSEL:

KaShonda L. Day, Esq. (MS Bar No. 103144)
Mary Clark Joyner, Esq. (MS Bar No. 105954)
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kashonda.day@arlaw.com
maryclark.joyner@arlaw.com

**CERTIFICATE OF SERVICE**

I, KaShonda L. Day, Attorney for Defendant, do hereby certify that I have this day filed, with Plaintiff's counsel of record a true and correct copy of the above and foregoing document, which will be distributed via the electronic court filing system.

Dated: March 19, 2026

*/s/ KaShonda L. Day*
KaShonda L. Day, Esq.

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

**MELISSA BROOME** **PLAINTIFF**

**VS.** **CIVIL NO.: 3:25-CV-234-DPJ-ASH**

**VICKSBURG WARREN SCHOOL DISTRICT** **DEFENDANT**

---

**NOTICE OF DEPOSITION**

---

PLEASE TAKE NOTICE that the undersigned counsel for the Vicksburg Warren School District will take the oral deposition of Melissa Broome beginning at 10:00 a.m. on Wednesday, April 8, 2026, *via* Zoom. The deposition will be taken before a certified court reporter and will continue from day to day until completion. You are invited to participate as you deem necessary.

Respectfully submitted, this the 6th day of April 2026.

**VICKSBURG WARREN SCHOOL DISTRICT**

By: /s/ *Mary Clark Joyner*

OF COUNSEL:

KaShonda L. Day, Esq. (MS Bar No. 103144)
Mary Clark Joyner, Esq. (MS Bar No. 105954)
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maryclark.joyner@arlaw.com

**CERTIFICATE OF SERVICE**

I do hereby certify that I have this day electronically filed the foregoing document with the Clerk of the Court using the ECF filing system, which sent notification of such filing to all counsel of record.

Dated: April 6, 2026.

*/s/ Mary Clark Joyner*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

MELISSA BROOME PLAINTIFF

V. CIVIL ACTION NO. 3:25-cv-234-DPJ-ASH

VICKSBURG WARREN SCHOOL DISTRICT DEFENDANT

ORDER OF DISMISSAL

THE PARTIES have agreed to and announced to the Court a settlement of this case. The court, being advised that all parties have an informed understanding of their rights and a full appreciation of the consequences of the settlement, and the Court being desirous that this matter be finally closed on its docket,

IT IS, THEREFORE, ORDERED that this case is hereby DISMISSED WITH PREJUDICE as to all parties. If any party fails to comply with the terms of this settlement agreed to by all parties, any aggrieved party may reopen the case for enforcement of the settlement agreement. If successful, all additional attorneys' fees and costs from this date shall be awarded such aggrieved party or parties against the party failing to comply with the agreement. The Court specifically retains jurisdiction to enforce the settlement agreement.

This settlement agreement constitutes a global release as to all claims and as to all parties with prejudice. This settlement will be finally complete upon execution of release documents.

**SO ORDERED AND ADJUDGED** this the 12th day of June, 2026.

s/ *Daniel P. Jordan III*
UNITED STATES DISTRICT JUDGE